

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: (continued) **ASSEMBLY:** Yes Special Comm.
on Infrastructure and
Natural Resources
Appropriations

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 2/17/2021
3/24/2021

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH/JA

§§3,4
C.58:31-4.1 and
58:31-4.2
§§7-11
C.58:31-8 to
58:31-12

P.L. 2021, CHAPTER 262, *approved November 8, 2021*
Senate Committee Substitute (*Fourth Reprint*) for
Senate, No. 647

1 AN ACT concerning cybersecurity and asset management at public
2 ²community² water systems and amending and supplementing
3 P.L.2017, c.133.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 2 of P.L.2017, c.133 (C.58:31-2) is amended to read as
9 follows:

10 2. As used in ²**[this act]** P.L.2017, c.133 (C.58:31-1 et seq.)² :

11 "Board" means the Board of Public Utilities.

12 "Cybersecurity incident" means an event occurring on or
13 conducted through a computer network that jeopardizes the integrity,
14 confidentiality, or availability of computers, information ¹**[or]**
15 systems,¹ communications systems ¹**[or]** ,¹ networks, physical or
16 virtual infrastructure controlled by computers or information systems,
17 or information residing thereon.

18 ^{3,3} "Cybersecurity insurance policy" means an insurance policy
19 designed to mitigate losses from cybersecurity incidents, including, but
20 not limited to, data breaches, business interruption, and network
21 damage.¹

22 "Department" means the Department of Environmental Protection.

23 "Industrial control system" means an information system used to
24 control industrial processes such as manufacturing, product handling,
25 production, or distribution. "Industrial control system" includes
26 supervisory control and data acquisition systems used to control
27 geographically dispersed assets, and distributed control systems and
28 smaller control systems using programmable logic controllers to
29 control localized processes.

30 "Information resource" means information and related resources,
31 such as personnel, equipment, funds, and information technology.

32 "Information system" means a discrete set of information resources
33 organized for the collection, processing, maintenance, use, sharing,
34 dissemination, or disposition of information.

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 floor amendments adopted June 15, 2020.

²Senate floor amendments adopted July 30, 2020.

³Assembly ANR committee amendments adopted December 10, 2020.

⁴Assembly AAP committee amendments adopted March 17, 2021.

1 ²“New Jersey Cybersecurity and Communications Integration
2 Cell” means the New Jersey Cybersecurity and Communications
3 Integration Cell established pursuant to Executive Order No. 178
4 (2015) in the New Jersey Office of Homeland Security and
5 Preparedness, or any successor entity.

6 “Public community water system” means the same as that term is
7 defined in subsection l. of section 3 of P.L.1977, c.224 (C.58:12A-3).²

8 "Public water system" means the same as the term is defined in
9 section 3 of P.L.1977, c.224 (C.58:12A-3).

10 "Water purveyor" means any person that owns a public
11 ²community² water system with more than 500 service connections.
12 (cf: P.L.2017, c.133, s.2)

13
14 2. Section 4 of P.L.2017, c.133 (C.58:31-4) is amended to read
15 as follows:

16 4. a. Within 120 days after the effective date of **[this act]**
17 P.L.2017, c.133 (C.58:31-1 et seq.), each water purveyor shall
18 develop a cybersecurity program, in accordance with requirements
19 established by the ²**[board]** New Jersey Cybersecurity and
20 Communications Integration Cell², as rules and regulations adopted
21 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
22 (C.52:14B-1 et seq.), that defines and implements organization
23 accountabilities and responsibilities for cyber risk management
24 activities, and establishes policies, plans, processes, and procedures
25 for identifying and mitigating cyber risk to its public ²community²
26 water system. As part of the ¹cybersecurity¹ program, a water
27 purveyor shall ¹: identify the individual chiefly responsible for
28 ensuring that the policies, plans processes, and procedures
29 established pursuant to this section are executed in a timely
30 manner;¹ conduct risk assessments and implement appropriate
31 controls to mitigate identified risks to the public ²community² water
32 system ¹**[,]** ¹: maintain situational awareness of cyber threats and
33 vulnerabilities to the public ²community² water system ¹**[,]** ¹:
34 and create and exercise incident response and recovery plans. No later
35 than ¹**[120]** 180¹ days after the effective date of P.L. _____,
36 c. (C. _____) (pending before the Legislature as this bill), a water
37 purveyor shall update its cybersecurity program to conform to the
38 requirements of section 3 of P.L. _____, c. (C. _____)(pending before
39 the Legislature as this bill).

40 A ¹water purveyor shall submit a¹ copy of the ¹cybersecurity¹
41 program developed pursuant to this subsection ¹**[shall be**
42 provided]¹ to ²**[¹the board, the department, and¹]²** the New Jersey
43 Cybersecurity and Communications Integration Cell ¹**[,]**¹
44 ²**[established pursuant to Executive Order No. 178 (2015) in the**

1 New Jersey Office of Homeland Security and Preparedness ~~]~~, in a
2 form and manner as determined by the New Jersey Cybersecurity
3 and Communications Integration Cell². ¹A cybersecurity program
4 submitted pursuant to this subsection shall not be considered a
5 government record under P.L.1963, c.73 (C.47:1A-1 et seq.), and
6 shall not be made available for public inspection.¹

7 b. Within 60 days after developing the ¹cybersecurity¹ program
8 required pursuant to subsection a. of this section, each water
9 purveyor shall join the New Jersey Cybersecurity and
10 Communications Integration Cell ~~‘[.]’~~² ~~[established pursuant to~~
11 ~~Executive Order No. 178 (2015),]~~² and create a cybersecurity
12 incident reporting process.

13 c. ~~[A water purveyor that does not have an internet-connected~~
14 ~~control system shall be exempt from the requirements of this~~
15 ~~section.]~~ ~~(Deleted by amendment, P.L. , c. (pending before the~~
16 ~~Legislature as this bill)~~

17 ¹d. No later than 180 days after the effective date of P.L. ,
18 c. (C.)(pending before the Legislature as this bill), each water
19 purveyor shall obtain a cybersecurity insurance policy that meets
20 any applicable standards adopted by the board.¹

21 (cf: P.L.2017, c.133, s.4)

22
23 3. (New section) a. In addition to the requirements of section 4
24 of P.L.2017, c.133 (C.58:31-4), and the requirements established by
25 the board pursuant thereto, no later than ¹~~[120]~~ 180¹ days after the
26 effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill), each water purveyor shall update its
28 cybersecurity program developed pursuant to section 4 of P.L.2017,
29 c.133 (C.58:31-4) to apply to all of the public ²community² water
30 system’s industrial control systems, and to reasonably conform to
31 the most recent version of one or more of the following industry-
32 recognized cybersecurity frameworks:

33 (1) the Framework for Improving Critical Infrastructure
34 Cybersecurity developed by the National Institute of Standards and
35 Technology;

36 (2) the Center for Internet Security Critical Security Controls for
37 Effective Cyber Defense; or

38 (3) the International Organization for Standardization and
39 International Electrotechnical Commission 27000 family of
40 standards for an information security management system.

41 b. Whenever a final revision to one or more of the frameworks
42 listed in subsection a. of this section is published, a water purveyor
43 whose cybersecurity program reasonably conformed to that
44 framework shall revise its cybersecurity program to reasonably

1 conform to the revised framework, ¹and submit a copy of the
2 revised cybersecurity program to ²the board, the department, and ²
3 the New Jersey Cybersecurity and Communications Integration
4 Cell, ¹ no later than ¹120 ¹180 days after publication of the
5 revised framework.

6 c. No later than one year after the effective date of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), and each
8 year thereafter, each water purveyor shall submit to the ¹board, the
9 department ¹, ¹ and ¹to ¹ the New Jersey Cybersecurity and
10 Communications Integration Cell ¹, ¹ ²established pursuant to
11 Executive Order No. 178 (2015), ² a certification demonstrating
12 that the water purveyor is in compliance with the requirements of
13 this section. The certification shall be made in the form and manner
14 as determined by the department, in consultation with the New
15 Jersey Cybersecurity and Communications Integration Cell. ¹The
16 certification shall be signed by the responsible corporate officer of
17 the public ²community ² water system, if privately held, executive
18 director, if an authority, or mayor or chief executive officer of the
19 municipality, if municipally owned, as applicable. ¹

20 d. ¹The New Jersey Cybersecurity and Communications
21 Integration Cell shall ²audit, or ² cause to be audited, for
22 compliance with the requirements of section 4 of P.L.2017, c.133
23 (C.58:31-4) and this section, any public ²community ² water system
24 that fails to submit a cybersecurity program as required pursuant to
25 subsection a. of section 4 of P.L.2017, c.133 (C.58:31-4), a revision
26 pursuant to subsection b. of this section, or a certification pursuant
27 to this section. ²Any audit shall be conducted by a qualified and
28 independent cybersecurity company, at the water purveyor's
29 expense. Following the audit, the water purveyor shall submit the
30 audit and any corrective action plans derived from the audit to the
31 New Jersey Cybersecurity and Communications Integration Cell. ²

32 e. ¹ A water purveyor shall, upon the request of the ¹board, the
33 department ¹, ¹ or the New Jersey Cybersecurity and
34 Communications Integration Cell, provide proof of compliance with
35 the requirements of this section, in a form and manner as
36 as determined by the ²board, the ² department ², ² or by the New Jersey
37 Cybersecurity and Communications Integration Cell.

38 ¹e. ¹ f. The board shall update any requirements it has
39 established for cybersecurity programs pursuant to subsection a. of
40 section 4 of P.L.2017, c.133 (C.58:31-4) to conform to the
41 requirements of this section.

42
43 4. (New section) ¹a. ¹ Beginning 90 days after the effective date
44 of P.L. , c. (C.) (pending before the Legislature as this

1 bill), ¹**each** a¹ water purveyor shall ¹**immediately**¹ report to the
2 ²**board, the department, and the**¹² New Jersey Cybersecurity and
3 Communications Integration Cell, ²**immediately**² promptly² after
4 an employee is made aware of a cybersecurity incident,¹ and in
5 accordance with all applicable laws, rules ¹,¹ and regulations:

6 ¹**a.** (1)¹ any cybersecurity incident that results in the
7 compromise of the confidentiality, integrity, availability, or privacy
8 of the water purveyor's utility billing, communications, data
9 management, or business information systems, or the information
10 thereon; and

11 ¹**b.** (2)¹ any cybersecurity incident against the water
12 purveyor's industrial control system, including monitoring,
13 operations, and centralized control systems, that adversely impact,
14 disable, or manipulate infrastructure, resulting in loss of service,
15 contamination of finished water, or damage to infrastructure.

16 ¹b. No later than 30 days after receiving a report of a
17 cybersecurity incident from a water purveyor pursuant to subsection
18 a. of this section, the New Jersey Cybersecurity and
19 Communications Integration Cell shall ²**audit, or**² cause to be
20 audited ²**the**² the water purveyor's cybersecurity program and any
21 actions the water purveyor took in response to the cybersecurity
22 incident. The audit shall identify cyber threats and vulnerabilities
23 to the public ²community² water system, weaknesses in the public
24 ²community² water system's cybersecurity program, and strategies
25 to address those weaknesses so as to protect the public ²community²
26 water system from the threat of future cybersecurity incidents.¹
27 ²Any audit shall be conducted by a qualified and independent
28 cybersecurity company, at the water purveyor's expense. Following
29 the audit, the water purveyor shall submit the audit and any
30 corrective action plans derived from the audit to the New Jersey
31 Cybersecurity and Communications Integration Cell.²
32

33 5. Section 6 of P.L.2017, c.133 (C.58:31-6) is amended to read as
34 follows:

35 6. ¹a.¹ In addition to any other certifications required pursuant to
36 law, rule, or regulation, the responsible corporate officer of the public
37 ²community² water system, if privately held, executive director, if an
38 authority, or mayor or chief executive officer of the municipality, if
39 municipally owned, as applicable, shall be required to certify in
40 writing each year to the **Department of Environmental Protection**
41 department and, if applicable, the ¹**Board of Public Utilities** board,
42 in a form and manner as determined by the department,¹ that the water
43 purveyor complies with: all federal and State drinking water
44 regulations, including water quality sampling, testing, and reporting

1 requirements; the hydrant and valve requirements set forth in section 3
2 of **【this act】** P.L.2017, c.133 (C.58:31-3); the notice of violation
3 mitigation plan requirements set forth in section 5 of **【this act】**
4 P.L.2017, c.133 (C.58:31-5), if applicable; and the infrastructure
5 improvement investment required pursuant to section 7 of **【this act】**
6 P.L.2017, c.133 (C.58:31-7). A water purveyor shall post the annual
7 certification required pursuant to this section on its Internet website, if
8 applicable.

9 ¹b. The department shall audit, or cause to be audited, for
10 compliance with the requirements of P.L.2017, c.133 (C.58:31-7), any
11 public ²community² water system that fails to submit the certification
12 required pursuant to subsection a. of this section in a timely manner.
13 If the department finds that a water purveyor has made a false or
14 misleading statement in a certification submitted pursuant to
15 subsection a. of this section, the department shall forward the matter to
16 the Attorney General for further investigation and, if necessary,
17 criminal prosecution or other appropriate relief, pursuant to any
18 applicable State or federal law, rule, or regulation.

19 c. The department shall annually audit ², or cause to be audited,²
20 for compliance with the requirements ³of³ P.L.2017, c.133 (C.58:31-7)
21 a random selection of at least 10 percent of all public ²community²
22 water systems in the State.¹

23 ²d. The department may require a water purveyor to pay the cost
24 of an audit ordered pursuant to this section.²

25 ⁴e. This section shall not be construed to abrogate or limit the
26 review and fiscal oversight authority granted to the Division of Local
27 Government Services in the Department of Community Affairs by the
28 "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs
29 Law," N.J.S.40A:5-1 et seq., the "Local Authorities Fiscal Control
30 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), or any other law.⁴
31 (cf: P.L.2017, c.133, s.6)

32
33 6. Section 7 of P.L.2017, c.133 (C.58:31-7) is amended to read as
34 follows:

35 7. a. Beginning no later than 18 months after the effective date of
36 **【this act】** P.L.2017, c.133 (C.58:31-1 et seq.), every water purveyor
37 shall implement an asset management plan designed to inspect,
38 maintain, repair, and renew its infrastructure consistent with standards
39 established by the American Water Works Association. The asset
40 management plan shall include:

41 (1) a water main renewal program designed to achieve a 150-year
42 replacement cycle, or other **【appropriate】** ²【shorter】 appropriate²
43 replacement cycle as determined by a detailed engineering analysis of

1 the asset condition and estimated service lives of the water mains
2 serving the public ²community² water system , or by the department ;

3 (2) a water supply and treatment program designed to inspect,
4 maintain, repair, renew, and upgrade wells, intakes, pumps, and
5 treatment facilities in accordance with all federal and State regulations,
6 standards established by the American Water Works Association, and
7 any mitigation plan required pursuant to section 5 of **[this act]**
8 P.L.2017, c.133 (C.58:31-5); and

9 (3) any other programs, plans, or provisions as may be required by
10 the department pursuant to rules and regulations adopted pursuant to
11 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.).

13 Each water purveyor shall dedicate ²adequate² funds on an annual
14 basis to address and remediate the highest priority projects as
15 determined by its asset management plan.

16 All asset management plans and system condition reports shall be
17 certified to by the licensed operator or professional engineer of the
18 public ²community² water system and the responsible corporate officer
19 of the public ²community² water system, if privately held, executive
20 director, if an authority, or mayor or chief executive officer of the
21 municipality, if municipally owned, as applicable. The replacement
22 cycle shall be determined by dividing the miles of water main located
23 in the public ²community² water system by 150 or other appropriate
24 demonstration set forth in the certified asset management plan
25 prepared pursuant to this section.

26 b. **[At least once every three years]** No later than one year after
27 the effective date of P.L. , c. (C.) (pending before the
28 Legislature as this bill), and ²[every three years] each year² thereafter,
29 each water purveyor shall provide to the department and the board, if
30 applicable, a report based on its asset management plan prepared
31 pursuant to subsection a. of this section identifying **[the infrastructure**
32 **improvements to be undertaken in the coming year and the cost of**
33 **those improvements, as well as identifying the infrastructure**
34 **improvements completed in the past year and the cost of those**
35 **improvements]** : (1) the infrastructure improvements completed in the
36 past ³[three years] year³ and the cost of those improvements,
37 including improvements funded by emergency and routine capital
38 spending; (2) the infrastructure improvements ²generally² planned to
39 be undertaken in the next three years and the estimated cost of those
40 improvements; and (3) the infrastructure improvements that ²[will]
41 may² be required over the next 10 years and the estimated cost of
42 those improvements. ⁴A report provided pursuant to this subsection
43 by a municipality, county, or authority that is a water purveyor, is
44 subject to the Local Authorities Fiscal Control Law, P.L.1983, c.313

1 (C.40A:5A-1 et seq.), and has a capital program extending beyond
2 three years shall also identify infrastructure improvements to be
3 undertaken pursuant to the asset management plan in the remaining
4 years of the capital program, along with the actual or estimated cost of
5 the improvements.⁴ ²Compliance with this subsection may be
6 demonstrated through the submission of evidence of completion of a
7 detailed, comprehensive planning study, facility master planning
8 study, or other long range planning study that is intended for use in
9 developing three- and ten-year capital improvement plans. A detailed
10 comprehensive planning study, facility master planning study, or other
11 long range planning study submitted pursuant to this subsection shall
12 not be considered a government record pursuant to P.L.1963, c.73
13 (C.47:1A-1 et seq.), and shall not be made available for public
14 inspection.² A municipal water department or municipal water
15 authority shall also submit the report required pursuant to this
16 subsection to the Division of Local Government Services in the
17 Department of Community Affairs. A water purveyor shall, upon
18 request, provide a copy of its asset management plan to the
19 department, the board, or the Division of Local Government Services
20 in the Department of Community Affairs.

21 c. The department, the board, and the Department of Community
22 Affairs shall create a centralized portal allowing for electronic
23 submittal of the report required pursuant to subsection b. of this
24 section. The lack of a centralized portal pursuant to this subsection
25 shall not negate the requirement for a water purveyor to submit a
26 report pursuant to subsection b. of this section.

27 (cf: P.L.2017, c.133, s.7)

28

29 7. (New section) a. In addition to the requirements of section
30 7 of P.L.2017, c.133 (C.58:31-7), no later than 18 months after the
31 effective date of P.L. , c. (C.) (pending before the
32 Legislature as this bill), each water purveyor shall revise its asset
33 management plan developed pursuant to section 7 of P.L.2017,
34 c.133 (C.58:31-7) to include:

35 (1) a comprehensive inventory, mapping, and ²evaluation of
36 the² condition ²[assessment]² of the public ²community² water
37 system's ²[assets, including its pipes, lead service lines, valves,
38 tanks, pumps, wells, treatment facilities, hydrants, and other
39 components, and an assessment of the remaining useful life of each
40 identified asset] following asset classes: transmission and
41 distribution piping, valves, service lines, hydrants, water treatment
42 plant facilities, and water supply facilities including wells,
43 reservoirs, and intakes² ;

44 (2) level of service goals for the public ²community² water
45 system ², based upon industry standards such as those established

1 by the American Water Works Association², which may include,
2 but need not be limited to, goals related to customer service and
3 accountability, energy and water efficiency and conservation, water
4 main breaks and service interruptions, and social and environmental
5 considerations;

6 (3) a priority order in which the public ²community² water
7 system's assets, identified in the comprehensive inventory prepared
8 pursuant to paragraph (1) of this subsection, will be repaired or
9 replaced as part of the water purveyor's asset management plan,
10 based on each assets' importance to the proper function of the
11 public ²community² water system, or business risk exposure; ²and²

12 (4) ²the life cycle costs of the public water system's assets,
13 including a schedule for the maintenance, repair, or replacement of
14 the assets, and for capital improvements to the public water system,
15 informed by the priority order developed pursuant to paragraph (3)
16 of this subsection; and

17 (5) ²a long-term funding strategy to implement the water
18 purveyor's asset management plan, including funding sources and
19 estimated annual expenditures to address prioritized repairs,
20 upgrades, and treatment.

21 b. The department shall, pursuant to the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
23 and regulations to implement the requirements of this section.
24

25 8. (New section) Any person who violates the provisions of
26 P.L.2017, c.133 (C.58:31-1 et seq.), or any rule or regulation
27 adopted pursuant thereto, shall be subject to the penalties and other
28 remedies set forth in section 10 of P.L.1977, c.224 (C.58:12A-10).
29 No later than ³180 days 18 months³ after the effective date of
30 P.L. , c. (C.) (pending before the Legislature as this bill), the
31 department shall adopt, pursuant to the "Administrative Procedure
32 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of civil
33 administrative penalties to be applied pursuant to this section for
34 specific violations of P.L.2017, c.133 (C.58:31-1 et seq.).
35

36 9. (New section) No later than one year after the effective date
37 of P.L. , c. (C.) (pending before the Legislature as this
38 bill), and annually thereafter, the department shall develop and
39 publish on its Internet website a report card for each water purveyor
40 in the State, indicating the water purveyor's compliance with
41 federal and State drinking water quality standards, its compliance
42 with the requirements of P.L.2017, c.133 (C.58:31-1 et seq.), and
43 any other factors the department deems appropriate. The report
44 card shall be designed to inform the public about the overall

1 condition of a public ²community² water system, and the quality of
2 water coming from the public ²community² water system.

3

4 10. (New section) No later than 18 months after the effective
5 date of P.L. , c. (C.) (pending before the Legislature as
6 this bill), and every three years thereafter, the department shall
7 prepare and submit a report to the Governor and, pursuant to section
8 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature assessing:

9 a. the data submitted by public ²community² water systems
10 pursuant to subsections b. and c. of section 7 of P.L.2017, c.133
11 (C.58:31-7). The assessment shall include, but need not be limited
12 to, an analysis of the total estimated cost of infrastructure
13 improvements to public ²community² water systems, Statewide,
14 required over the next 10 years; and

15 b. the compliance of public ²community² water systems with
16 the requirements of P.L.2017, c.133 (C.58:31-1 et seq.) and the
17 rules and regulations adopted pursuant thereto.

18

19 11. (New section) The department and the board shall adopt,
20 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
21 (C.52:14B-1 et seq.), rules and regulations as are necessary to carry
22 out the provisions of P.L.2017, c.133 (C.58:31-1 et seq.).

23

24 ²12. Section 3 of P.L.2017, c.133 (C.58:31-3) is amended to read
25 as follows:

26 3. a. Each water purveyor shall inspect each valve in its public
27 community water system in accordance with the provisions of
28 subsection b. of this section in order to determine (1) accessibility of
29 the valve for operational purposes, and (2) the valve's operating
30 condition. A water purveyor shall repair or replace any valve found to
31 be broken or otherwise not operational.

32 b. Each water purveyor shall inspect each valve that is 12 or more
33 inches in diameter at least once every ³[two] four³ years, and shall
34 inspect all other valves at least once every ³[four] eight³ years, except
35 that the requirements of this subsection shall not apply to any service
36 connection valve or customer shut-off valve. At a minimum, each
37 valve inspection conducted pursuant to this subsection shall include:

38 (1) clearing of the area around the valve to ensure full access to the
39 valve for operating purposes;

40 (2) cleaning out of the valve box;

41 (3) dynamic testing of the valve, by opening and then closing the
42 valve for either of the following number of turns:

43 (a) the number of turns recommended by the valve manufacturer
44 to constitute a credible test; or

1 (b) the number of turns which constitutes 15 percent of the total
2 number of turns necessary to completely open or completely close the
3 valve ; and

4 (4) complying with any other criteria as may be required by the
5 department pursuant to rules and regulations adopted pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

7 c. (1) Each water purveyor shall, once a year, test every fire
8 hydrant in its system in order to determine the hydrant's working
9 condition.

10 (2) Each water purveyor shall formulate and implement a plan for
11 flushing every fire hydrant in the public community water system, and
12 every dead end of a main in the public community water system. This
13 plan for flushing may be combined with the periodic testing of fire
14 hydrants required pursuant to paragraph (1) of this subsection.

15 d. Each water purveyor shall keep a record of all inspections,
16 tests, and flushings conducted pursuant to this section for a period of at
17 least ³[six] 12³ years.

18 e. Each water purveyor that owns, solely or jointly, a fire hydrant
19 shall mark each hydrant with the initials of its name, abbreviation of
20 its name, corporate symbol, or other distinguishing mark or code by
21 which ownership may be readily and definitely ascertained. Each fire
22 hydrant shall be marked with a number or symbol, or both, by which
23 the location of the hydrant may be determined on the water purveyor's
24 office records. The markings may be made with ³[paint, brand, or
25 with]³ a soft metal plate, ³plastic, or another durable material,³ and
26 shall be of such size and so spaced and maintained as to be easily read.

27 f. Each water purveyor shall identify, to the extent possible, the
28 geographic location of each valve and fire hydrant in its public
29 community water system using a global positioning system based on
30 satellite or other location technology.²

31 (cf: P.L.2017, c.133, s.3)

32

33 ²13. Section 5 of P.L.2017, c.133 (C.58:31-5) is amended to
34 read as follows:

35 5. In addition to any other requirements in law, or any rule or
36 regulation adopted pursuant thereto, whenever a water purveyor is
37 issued , pursuant to section 10 of P.L.1977, c.224 (C.58:12A-10) ,
38 three notices of violation for any reason or two notices of violation
39 related to an exceedance of a maximum contaminant level within
40 any 12-month period, the water purveyor, within 60 days after
41 receipt of the third or second notice, as applicable, shall submit to
42 the department a mitigation plan specifying whether the notice of
43 violation will be addressed through operational changes or require a
44 capital expenditure and providing a schedule for implementation of
45 the mitigation plan. The mitigation plan shall include a report

1 prepared by the licensed operator of the public community water
2 system and a professional engineer licensed pursuant to P.L.1938,
3 c.342 (C.45:8-27 et seq.) that includes a technical analysis of the
4 notices of violation and an explanation of how the mitigation plan
5 submitted pursuant to this section is intended to prevent a
6 recurrence of the issue that resulted in the notice of violation. Any
7 capital expenditures required pursuant to this section shall be
8 incorporated into the asset management plan required pursuant to
9 section 7 of **[this act]** P.L.2017, c.133 (C.58:31-7).²
10 (cf: P.L.2017, c.133, s.5)

11

12 ²**[12.]** 14.² This act shall take effect immediately.

13

14

15

16

17 Revises cybersecurity, asset management, and related reporting
18 requirements in “Water Quality Accountability Act.”

SENATE, No. 647

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Revises asset management and related reporting requirements in “Water Quality Accountability Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/27/2020)

1 AN ACT concerning asset management at public water systems and
2 amending and supplementing P.L.2017, c.133.

3

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

6

7 1. Section 7 of P.L.2017, c.133 (C.58:31-7) is amended to read
8 as follows:

9 7. a. Beginning no later than 18 months after the effective date
10 of **[this act]** P.L.2017, c.133 (C.58:31-1 et seq.), every water
11 purveyor shall implement an asset management plan designed to
12 inspect, maintain, repair, and renew its infrastructure consistent
13 with standards established by the American Water Works
14 Association. The asset management plan shall include:

15 (1) a water main renewal program designed to achieve a 150-
16 year replacement cycle, or other **[appropriate]** shorter replacement
17 cycle as determined by a detailed engineering analysis of the asset
18 condition and estimated service lives of the water mains serving the
19 public water system;

20 (2) a water supply and treatment program designed to inspect,
21 maintain, repair, renew, and upgrade wells, intakes, pumps, and
22 treatment facilities in accordance with all federal and State
23 regulations, standards established by the American Water Works
24 Association, and any mitigation plan required pursuant to section 5
25 of **[this act]** P.L.2017, c.133 (C.58:31-5); and

26 (3) any other programs, plans, or provisions as may be required
27 by the department pursuant to rules and regulations adopted
28 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
29 (C.52:14B-1 et seq.).

30 Each water purveyor shall dedicate funds on an annual basis to
31 address and remediate the highest priority projects as determined by
32 its asset management plan.

33 All asset management plans and system condition reports shall
34 be certified to by the licensed operator or professional engineer of
35 the public water system and the responsible corporate officer of the
36 public water system, if privately held, executive director, if an
37 authority, or mayor or chief executive officer of the municipality, if
38 municipally owned, as applicable. The replacement cycle shall be
39 determined by dividing the miles of water main located in the
40 public water system by 150 or other appropriate demonstration set
41 forth in the certified asset management plan prepared pursuant to
42 this section.

43 b. **[At least once every three years]** Within one year after the
44 effective date of P.L. , c. (C.) (pending before the
45 Legislature as this bill), and every three years thereafter, each water

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.

1 purveyor shall provide to the department and the board, if
2 applicable, a report based on its asset management plan prepared
3 pursuant to subsection a. of this section identifying **【the**
4 **infrastructure improvements to be undertaken in the coming year**
5 **and the cost of those improvements, as well as identifying the**
6 **infrastructure improvements completed in the past year and the cost**
7 **of those improvements】** : (1) the infrastructure improvements
8 completed in the past three years and the cost of those
9 improvements; (2) the infrastructure improvements planned to be
10 undertaken in the next three years and the estimated cost of those
11 improvements; and (3) the infrastructure improvements that will be
12 required over the next 10 years and the estimated cost of those
13 improvements. A municipal water department or municipal water
14 authority shall also submit the report required pursuant to this
15 subsection to the Division of Local Government Services in the
16 Department of Community Affairs.

17 c. The department, the board, and the Department of
18 Community Affairs shall create a centralized portal allowing for
19 electronic submittal of the report required pursuant to subsection b.
20 of this section. The lack of a centralized portal pursuant to this
21 subsection shall not negate the requirement for a water purveyor to
22 submit a report pursuant to subsection b. of this section.

23 (cf: P.L.2017, c.133, s.7)

24

25 2. (New section) No later than 18 months after the effective
26 date of P.L. , c. (C.) (pending before the Legislature as
27 this bill), and every three years thereafter, the department shall
28 conduct an assessment of the data submitted by public water
29 systems pursuant to subsections b. and c. of section 7 of P.L.2017,
30 c.133 (C.58:31-7). The assessment shall include, but need not be
31 limited to, an analysis of the total estimated cost of infrastructure
32 improvements to public water systems, Statewide, required over the
33 next 10 years. The department shall submit a report containing the
34 results of each such assessment to the Governor and, pursuant to
35 section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature.

36

37 3. (New section) The department shall adopt, pursuant to the
38 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
39 seq.), such rules and regulations as are necessary to carry out the
40 provisions of P.L.2017, c.133 (C.58:31-1 et seq.).

41

42 4. This act shall take effect immediately.

43

44

45

STATEMENT

46

47 This bill would revise the asset management requirements in the
48 “Water Quality Accountability Act” (WQAA), and related reporting

1 requirements, and require the Department of Environmental
2 Protection (DEP) to adopt rules implementing the WQAA.

3 The WQAA currently requires water purveyors, as part of their
4 asset management plans, to develop a water main renewal program
5 designed to achieve a 150-year replacement cycle, or other
6 appropriate replacement cycle as determined by a detailed
7 engineering analysis. This bill would specify that water main
8 renewal programs must be designed to achieve a 150-year or shorter
9 replacement cycle. Additionally, the bill would require each water
10 purveyor, within one year after the effective date of this bill, and
11 every three years thereafter, to submit to the DEP a more detailed
12 report based on its asset management plan. The report would
13 identify: (1) the infrastructure improvements completed in the past
14 three years and the cost of those improvements; (2) the
15 infrastructure improvements planned to be undertaken in the next
16 three years and the estimated cost of those improvements; and (3)
17 the infrastructure improvements that will be required over the next
18 10 years and the estimated cost of those improvements.

19 Under the WQAA, the DEP is permitted, but not required, to
20 adopt rules implementing the WQAA. This bill would require the
21 DEP to adopt such rules, providing needed guidance to water
22 purveyors. Additionally, the bill would require the DEP, within 18
23 months after the effective date of this bill, and every three years
24 thereafter, to conduct an assessment of the data submitted by water
25 purveyors under the bill. The assessment would include, but need
26 not be limited to, an analysis of the total estimated cost of
27 infrastructure improvements to water purveyors, Statewide, required
28 over the next 10 years. The department would submit a report
29 containing the results of each such assessment to the Governor and
30 the Legislature.

31 This bill is based on recommendations in the Joint Legislative
32 Task Force on Drinking Water Infrastructure's final report, issued
33 in January 2018.

ASSEMBLY SPECIAL COMMITTEE ON INFRASTRUCTURE
AND NATURAL RESOURCES

STATEMENT TO

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2020

The Assembly Special Committee on Infrastructure and Natural Resources reports favorably and with committee amendments Senate Bill No. 647 (SCS/2R).

This bill, as amended by the committee, would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA), P.L.2017, c.133 (N.J.S.A.58:31-1 et seq.), and increase the oversight responsibilities of the Department of Environmental Protection (DEP) and the Office of Homeland Security and Preparedness in relation to the WQAA. The bill would also provide that the WQAA applies to "public community water systems" instead of "public water systems," as those terms are defined in the "Safe Drinking Water Act," P.L.1977, c.224 (N.J.S.A.58:12A-1 et seq.).

Specifically, the bill would require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after enactment of the bill into law. These new requirements include updating cybersecurity programs to apply to all of the public water system's industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements. The bill would also direct the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the Office of Homeland Security and Preparedness to formulate additional requirements for cybersecurity programs. The bill would require water purveyors to submit their cybersecurity plans and revisions to the NJCCIC. The bill would direct the NJCCIC to audit any water purveyor that fails to submit a cybersecurity plan. The bill would remove, from existing law, an exemption from cybersecurity-related requirements of the WQAA for water purveyors that do not have an internet-connected control system. The bill would also require water purveyors to obtain a cybersecurity insurance policy.

In addition, the bill would require water purveyors to report certain cybersecurity incidents (i.e. data breaches and computer hacking) promptly to the NJCCIC. The bill would direct the NJCCIC to audit the relevant public community water system no later than 30 days after being made aware of an incident. Cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

The bill would require the DEP to annually audit, or cause to be audited, a random selection of at least 10 percent of all public community water systems in the State for compliance with the requirements of the WQAA. The DEP would also be required to audit, or cause to be audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA (N.J.S.A.58:31-6). If the DEP finds that a water purveyor has made a false or misleading statement in the certification, the DEP would forward the matter to the Attorney General for further investigation and, if necessary, criminal prosecution or other appropriate relief.

The WQAA currently requires water purveyors to develop a water main replacement program designed to achieve a replacement cycle of either 150-years or another appropriate duration, as determined by a detailed engineering analysis. This bill would modify this requirement to provide that the DEP may determine an appropriate replacement cycle. Additionally, the bill requires each water purveyor, within one year after enactment of the bill into law and every year thereafter, to submit to the DEP a more detailed report based on its asset management plan than currently required by the WQAA. This report would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements. A water purveyor would be required to provide, upon request, a copy of its asset management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The bill would also require water purveyors, within 18 months after enactment of the bill into law, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan. Compliance may be demonstrated through the submission of evidence of completion of a detailed, comprehensive planning study, facility master planning study, or other long range planning study that is intended for use in developing three- and ten-year capital

improvement plans. A water purveyor's detailed comprehensive planning study, facility master planning study, or other long range planning study submitted pursuant to these requirements would not be considered a government record and would not be made available for public inspection.

The bill would provide that violations of the WQAA are to be subject to the same penalties as violations of the "Safe Drinking Water Act." The bill would direct the DEP, no later than 18 months after the effective date of the bill, to adopt, pursuant to the "Administrative Procedure Act," a schedule of civil administrative penalties for specific violations of the WQAA.

The bill would also require the DEP to develop and publish on its Internet website an annual report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The bill also requires the DEP, within 18 months after enactment and every three years thereafter, to submit a report to the Governor and the Legislature, which includes an analysis of the Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years and an assessment of the compliance of public water systems with the requirements of the WQAA.

Finally, the bill would modify certain valve inspection, fire hydrant identification, and record keeping requirements of the WQAA, as set forth in section 12 of the bill.

As amended by the committee, this bill is identical to Assembly Bill No. 4825, as also amended by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) provide that the annual report submitted to the DEP by water purveyors, based on their asset management plans, is required to identify the infrastructure improvements completed in the past year, rather than the past three years;

(2) provide that the DEP is to adopt a schedule of civil administrative penalties no later than 18 months after the bill's enactment, rather than 180 days after the bill's enactment;

(3) require water purveyors to inspect certain valves that are 12 or more inches in diameter at least once every four years, rather than every two years, as currently required by the WQAA;

(4) require water purveyors to inspect certain other valves at least once every eight years, rather than every four years, as currently required by the WQAA;

(5) require water purveyors to keep a record of all inspections, tests, and flushings conducted for a period of 12 years, rather than six years, as currently required by the WQAA; and

(6) provide that water purveyors are required to mark their names on fire hydrants they own using metal, plastic, or another durable material, rather than using paint or branding; and

(7) correct typographical errors.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 647**

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 17, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 647 SCS (3R), with committee amendments.

As amended, this bill would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA), P.L.2017, c.133 (N.J.S.A.58:31-1 et seq.), and increase the oversight responsibilities of the Department of Environmental Protection (DEP) and the Office of Homeland Security and Preparedness in relation to the WQAA. The bill would also provide that the WQAA applies to "public community water systems" instead of "public water systems," as those terms are defined in the "Safe Drinking Water Act," P.L.1977, c.224 (N.J.S.A.58:12A-1 et seq.).

Specifically, the bill would require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after enactment of the bill into law. These new requirements include updating cybersecurity programs to apply to all of the public water system's industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements. The bill would also direct the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the Office of Homeland Security and Preparedness to formulate additional requirements for cybersecurity programs. The bill would require water purveyors to submit their cybersecurity plans and revisions to the NJCCIC. The bill would direct the NJCCIC to audit any water purveyor that fails to submit a cybersecurity plan. The bill would remove, from existing law, an exemption from cybersecurity-related requirements of the WQAA for water purveyors that do not have an internet-connected control system. The bill would also require water purveyors to obtain a cybersecurity insurance policy.

In addition, the bill would require water purveyors to report certain cybersecurity incidents (i.e. data breaches and computer hacking) promptly to the NJCCIC. The bill would direct the NJCCIC to audit

the relevant public community water system no later than 30 days after being made aware of an incident. Cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

The bill would require the DEP to annually audit, or cause to be audited, a random selection of at least 10 percent of all public community water systems in the State for compliance with the requirements of the WQAA. The DEP would also be required to audit, or cause to be audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA (N.J.S.A.58:31-6). If the DEP finds that a water purveyor has made a false or misleading statement in the certification, the DEP would forward the matter to the Attorney General for further investigation and, if necessary, criminal prosecution or other appropriate relief.

The WQAA currently requires water purveyors to develop a water main replacement program designed to achieve a replacement cycle of either 150-years or another appropriate duration, as determined by a detailed engineering analysis. This bill would modify this requirement to provide that the DEP may determine an appropriate replacement cycle. Additionally, the bill requires each water purveyor, within one year after enactment of the bill into law and every year thereafter, to submit to the DEP and the Board of Public Utilities (BPU), if applicable, a more detailed report based on its asset management plan than currently required by the WQAA. This report would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements. A water purveyor would be required to provide, upon request, a copy of its asset management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The bill would also require water purveyors, within 18 months after enactment of the bill into law, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan. Compliance may be demonstrated through the submission of evidence of completion of a detailed, comprehensive planning study, facility master planning study, or other long range planning study that is intended for use in developing three- and ten-year capital improvement plans. A water purveyor's detailed comprehensive planning study, facility master planning study, or other long range

planning study submitted pursuant to these requirements would not be considered a government record and would not be made available for public inspection.

The bill would provide that violations of the WQAA are to be subject to the same penalties as violations of the "Safe Drinking Water Act." The bill would direct the DEP, no later than 18 months after the effective date of the bill, to adopt, pursuant to the "Administrative Procedure Act," a schedule of civil administrative penalties for specific violations of the WQAA.

The bill would also require the DEP to develop and publish on its Internet website an annual report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The bill also requires the DEP, within 18 months after enactment and every three years thereafter, to submit a report to the Governor and the Legislature, which includes an analysis of the Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years and an assessment of the compliance of public water systems with the requirements of the WQAA.

Finally, the bill would modify certain valve inspection, fire hydrant identification, and record keeping requirements of the WQAA, as set forth in section 12 of the bill.

As amended by the committee, this bill is identical to Assembly Bill No. 4825 (1R), as also amended by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) clarify that the auditing authority provided to the DEP under the bill would not limit the fiscal oversight authority granted, under current law, to the Division of Local Government Services in the Department of Community Affairs; and

(2) require certain municipalities, counties, and authorities that have capital programs extending beyond three years to identify, in their annual reports to the DEP on their asset management plans, the infrastructure improvements to be undertaken pursuant to their asset management plans in the remaining years of their capital programs, along with the actual or estimated cost of the improvements.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality

Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.

The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it would do so.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 647**

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 647.

This committee substitute would revise the cybersecurity, asset management, and related reporting requirements in the “Water Quality Accountability Act” (WQAA), and require the Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) to adopt rules implementing the WQAA.

The WQAA currently requires water purveyors to develop cybersecurity programs. The committee substitute would require water purveyors to update their cybersecurity programs to meet new requirements within 120 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public water system’s industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements. The committee substitute also would require water purveyors, beginning 90 days after its effective date, to immediately report to the New Jersey Cybersecurity and Communications Integration Cell certain cybersecurity incidents. The committee substitute also would delete the exemption for water purveyors that do not have an internet-connected control system.

The WQAA currently requires water purveyors, as part of their asset management plans, to develop a water main renewal program designed to achieve a 150-year replacement cycle, or other appropriate replacement cycle as determined by a detailed engineering analysis. The committee substitute would specify that water main renewal programs have to be designed to achieve a 150-year or shorter replacement cycle. Additionally, the committee substitute would require each water purveyor, within one year after its effective date and every three years thereafter, to submit to the DEP a more detailed report based on its asset management plan. The report would identify: (1) the infrastructure improvements completed in the past three years and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the

estimated cost of those improvements. The committee substitute also would require a water purveyor to provide, upon request, a copy of its asset management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The committee substitute would further require water purveyors, within 18 months after its effective date, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; (4) the life cycle costs of the public water system's assets; and (5) a long-term funding strategy to implement the water purveyor's asset management plan. Additionally, water purveyors would be required to post the annual certification required by the WQAA to be posted on their Internet websites, if applicable.

Under the WQAA, the DEP is currently permitted, but not required, to adopt rules implementing the WQAA. The committee substitute would require the DEP and the BPU to adopt such rules as are necessary to carry out the WQAA. In addition to this general directive to adopt rules, the committee substitute specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

The committee substitute also would require the DEP to, within one year after its effective date and annually thereafter, to develop and publish on its Internet website a report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The report card would be designed to inform the public about the overall condition of a public water system, and the quality of water coming from the public water system.

Additionally, the committee substitute would require the DEP, within 18 months after its effective date and every three years thereafter, to conduct an assessment of certain data submitted by water purveyors under the WQAA. The assessment would include, but need not be limited to, an analysis of the total, Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years. The report would also have to include an assessment of the compliance of public water systems with the requirements of the WQAA. The department would submit a report containing the results of each such assessment to the Governor and the Legislature.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 647**

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 647 SCS.

This bill revises the cybersecurity, asset management, and related reporting requirements in the “Water Quality Accountability Act” (WQAA), and requires the Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) to adopt rules implementing the WQAA.

The WQAA currently requires water purveyors to develop cybersecurity programs. The bill requires water purveyors to update their cybersecurity programs to meet new requirements within 120 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public water system’s industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements. The bill also requires water purveyors, beginning 90 days after its effective date, to immediately report to the New Jersey Cybersecurity and Communications Integration Cell certain cybersecurity incidents. The bill also deletes the exemption for water purveyors that do not have an internet-connected control system.

The WQAA currently requires water purveyors, as part of their asset management plans, to develop a water main renewal program designed to achieve a 150-year replacement cycle, or other appropriate replacement cycle as determined by a detailed engineering analysis. The bill specifies that water main renewal programs have to be designed to achieve a 150-year or shorter replacement cycle. Additionally, the bill requires each water purveyor, within one year after its effective date and every three years thereafter, to submit to the DEP a more detailed report based on its asset management plan. The report is to identify: (1) the infrastructure improvements completed in the past three years and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements. The bill also requires a water purveyor to provide, upon request, a copy of its asset

management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The bill further requires water purveyors, within 18 months after its effective date, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; (4) the life cycle costs of the public water system's assets; and (5) a long-term funding strategy to implement the water purveyor's asset management plan. Additionally, water purveyors are required to post the annual certification, required by the WQAA, on their Internet websites, if applicable.

Under the WQAA, the DEP is currently permitted, but not required, to adopt rules implementing the WQAA. The bill requires the DEP and the BPU to adopt such rules as are necessary to carry out the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

The bill also requires the DEP, within one year after its effective date and annually thereafter, to develop and publish on its Internet website a report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The report card is to be designed to inform the public about the overall condition of a public water system, and the quality of water coming from the public water system.

Additionally, the bill requires the DEP, within 18 months after its effective date and every three years thereafter, to conduct an assessment of certain data submitted by water purveyors under the WQAA. The assessment is to include, but need not be limited to, an analysis of the total, Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years. The report is also to include an assessment of the compliance of public water systems with the requirements of the WQAA. The department is to submit a report containing the results of each such assessment to the Governor and the Legislature.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill will lead to an indeterminate annual expenditure increase for publicly-owned water purveyors, including State entities, certain municipalities, and municipal and regional water authorities. The OLS cannot

quantify this increase due to the unavailability of information about the extent of water purveyors' existing cybersecurity programs and asset management plans.

The OLS finds that the bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the DEP, the BPU, and the Office of Homeland Security and Preparedness. For example, the bill requires both DEP and BPU to adopt rules to implement the WQAA and to review more complicated asset management and cybersecurity plans from water purveyors. It is possible, however, that these additional administrative responsibilities could be absorbed within departmental budgets using existing staff.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 647

with Senate Floor Amendments
(Proposed by Senator GREENSTEIN)

ADOPTED: JUNE 15, 2020

These Senate floor amendments would:

(1) require each water purveyor in the State to obtain a cybersecurity insurance policy, and define the term “cybersecurity insurance policy”;

(2) require a water purveyor to identify in its cybersecurity program the individual chiefly responsible for ensuring that the water purveyor’s cybersecurity policies, plans, processes, and procedures are executed in a timely manner;

(3) require a water purveyor to submit a copy of its cybersecurity program to the Board of Public Utilities (BPU) and the Department of Environmental Protection (DEP), in addition to the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC);

(4) require a water purveyor to submit a copy of any revised cybersecurity program to the BPU, the DEP, and the NJCCIC;

(5) require a water purveyor to submit a copy of the cybersecurity certification required pursuant to subsection c. of section 3 of the bill to the BPU, in addition to the DEP and the NJCCIC;

(6) require that a water purveyor’s cybersecurity certification be signed by the responsible corporate officer of the public water system, if privately held, executive director, if an authority, or mayor or chief executive officer of the municipality, if municipally owned;

(7) provide that the NJCCIC will audit, for compliance with the cybersecurity provisions of the “Water Quality Accountability Act (WQAA),” P.L.2017, c.133 (C.58:31-1 et seq.), any public water system that fails to submit its cybersecurity program, any updates to the program, or its cybersecurity certification;

(8) provide that a water purveyor must report certain cybersecurity incidents to the BPU, the DEP, and the NJCCIC immediately after an employee is made aware of the cybersecurity incident;

(9) require the NJCCIC, no later than 30 days after receiving a report of a cybersecurity incident from a water purveyor under the bill, to audit the water purveyor’s cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident;

(10) require the DEP to audit any public water system that fails to submit the certification required under section 6 of the WQAA in a timely manner;

(11) provide that, if the DEP finds that a water purveyor has made a false or misleading statement in a certification submitted pursuant to the “Water Quality Accountability Act” or this bill, the DEP shall

forward the matter to the Attorney General for further investigation and, if appropriate, criminal prosecution or other relief;

(12) provide that the DEP shall annually audit for compliance with the requirements of the “Water Quality Accountability Act” a random selection of at least 10 percent of all public water systems in the State;

(13) provide that a cybersecurity program would not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) and would not be available for public inspection; and

(14) make technical corrections to the bill.

STATEMENT TO
[First Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647

with Senate Floor Amendments
(Proposed by Senators GREENSTEIN and SINGLETON)

ADOPTED: JULY 30, 2020

The Senate floor amendments:

(1) amend the “Water Quality Accountability Act,” P.L.2017, c.133 (C.58:31-1 et seq.) to provide that the law applies to public community water systems, rather than public water systems;

(2) add a definition for the term “public community water system”;

(3) add a definition for the term “New Jersey Cybersecurity and Communications Integration Cell”;

(4) require that the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) develop requirements for water purveyors’ cybersecurity programs, rather than the Board of Public Utilities (BPU);

(5) require that water purveyors submit their cybersecurity plans and revisions only to the NJCCIC, and not to the BPU or the Department of Environmental Protection (DEP);

(6) provide that the NJCCIC may cause to be audited certain public community water systems, and require that audits be conducted by a qualified and independent cybersecurity company at the water purveyor’s expense;

(7) require water purveyors, following a cybersecurity audit, to submit the audit and any corrective action plans to the NJCCIC;

(8) require water purveyors to report cybersecurity incidents to the NJCCIC, and not to the BPU or the DEP;

(9) require that reports of cybersecurity incidents to the NJCCIC be made “promptly,” instead of “immediately” after an employee is made aware of an incident;

(10) provide that the DEP may cause to be audited certain public community water systems, rather than conducting an audit itself, and that the DEP may require a water purveyor to pay the cost of the audit;

(11) provide that a water purveyor’s water main renewal program may be designed to achieve another, appropriate replacement cycle, rather than a 150-year or shorter replacement cycle);

(12) specify that dedicated funding required to address and remediate the highest priority infrastructure projects by a water purveyor on an annual basis be adequate for that purpose;

(13) require that the a water purveyor submit a report based on its asset management plan to the DEP each year, rather than every three years;

(14) provide that a water purveyor's compliance with the requirement to report on its asset management plan may be demonstrated through the submission of evidence of the completion of a detailed, comprehensive planning study or certain other studies;

(15) provide that the detailed comprehensive planning study and certain other studies conducted by a water purveyor are not government records, and are not required to be made available for public inspection;

(16) require each water purveyor to revise its asset management plan to include a comprehensive inventory, mapping, and evaluation of the condition of certain asset classes belonging to the public community water system;

(17) require that a water purveyor's level of service goals, required to be established under the bill, be based upon industry standards such as those established by the American Water Works Association;

(18) remove the requirement in the bill that a water purveyor include in its asset management plan the life cycle costs of the public community water system's assets; and

(19) make technical changes to the bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 18, 2020

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual expenditure increases to the State and local governments
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill will lead to an indeterminate annual expenditure increase for publicly-owned water purveyors, including State entities, certain municipalities, and municipal and regional water authorities. The OLS cannot quantify this increase due to the unavailability of information about the extent of water purveyors' existing cybersecurity programs and asset management plans.
- The OLS finds that the bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). For example, the bill requires both DEP and BPU to adopt rules to implement the Water Quality Accountability Act (WQAA) and to review more complicated asset management and cybersecurity plans from water purveyors. It is possible, however, that these additional administrative responsibilities could be absorbed within departmental budgets using existing staff.

BILL DESCRIPTION

This bill would revise the cybersecurity, asset management, and the related reporting requirements in the WQAA, and require the DEP and the BPU to adopt rules implementing the WQAA.

The WQAA currently requires water purveyors to develop cybersecurity programs. The bill would require water purveyors to update their cybersecurity programs to meet new requirements within 120 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public water system's industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements to the DEP and the OHSP. The bill also would delete the exemption for water purveyors that do not have an internet-connected control system.

The WQAA currently requires water purveyors, as part of their asset management plans, to develop a water main renewal program designed to achieve a 150-year replacement cycle, or other appropriate replacement cycle as determined by a detailed engineering analysis. This bill would specify that water main renewal programs have to be designed to achieve a 150-year or shorter replacement cycle. Additionally, the bill would require each water purveyor, within one year after its effective date and every three years thereafter, to submit to the DEP a more detailed report based on its asset management plan. The report would identify: (1) the infrastructure improvements completed in the past three years and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements. The bill also would require a water purveyor to provide, upon request, a copy of its asset management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The bill would further require water purveyors, within 18 months after its effective date, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; (4) the life cycle costs of the public water system's assets; and (5) a long-term funding strategy to implement the water purveyor's asset management plan. Additionally, water purveyors would be required to post the annual certification required by the WQAA to be posted on their Internet websites, if applicable.

Under the WQAA, the DEP is currently permitted, but not required, to adopt rules implementing the WQAA. The bill would require the DEP and the BPU to adopt such rules as are necessary to carry out the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

The bill also would require the DEP to, within one year after its effective date and annually thereafter, to develop and publish on its website a report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The report card would be designed to inform the public about the overall condition of a public water system, and the quality of water coming from the public water system.

Additionally, the bill would require the DEP, within 18 months after its effective date and every three years thereafter, to conduct an assessment of certain data submitted by water purveyors under the WQAA. The assessment would include, but need not be limited to, an analysis of the

total, Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years. The report would also have to include an assessment of the compliance of public water systems with the requirements of the WQAA. The DEP would submit a report containing the results of each such assessment to the Governor and the Legislature.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill will lead to an indeterminate annual expenditure increase for publicly owned water purveyors, including State entities, certain municipalities, and municipal and regional water authorities. The OLS cannot quantify this increase due to the unavailability of information about the extent of water purveyors' existing cybersecurity programs and asset management plans. The OLS notes that there are about 300 government and privately-owned water purveyors in the State to which the requirements of this bill will apply.

The bill would require water purveyors to update their cybersecurity programs to conform to certain industry standards and to certify this update to the DEP and the New Jersey Cybersecurity and Communications Integration Cell. Certain water purveyors may already have cybersecurity plans that conform to the industry standards, in which case they would only face the marginal costs associated with certifying their plans to the State. Other water purveyors may need to update their programs, which may require outside consultants and additional expenditures. The bill also removes an exemption for water purveyors that do not have internet connected control systems, which may mean that additional water purveyors would need to conform to the cybersecurity regulations in this bill and the WQAA. However, it is uncertain how many water purveyors are in this situation.

The bill would also require water purveyors to revise their asset management plans to include detailed information about the water system's infrastructure, service goals, costs, and priorities for replacing infrastructure. Certain water purveyors may have already prepared a plan that meets these requirements under the WQAA, as originally enacted. However, for those that did not, complying with these provisions may also require the use of outside consultants and additional spending.

In addition, the bill would require water purveyors to complete and submit to the DEP and BPU a more detailed report on its asset management plan than is currently required under the WQAA. Certain water purveyors may also be required to modify their water main renewal programs, as the bill clarifies that water main renewal programs cannot contain a replacement cycle that exceeds 150 years. The requirements would impose additional administrative tasks on water purveyors but should not give rise to substantial expenditure increases given that water purveyors are already required to develop both the reports and the water main renewal programs.

The OLS determines that the bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the DEP, the BPU, and the OHSP. The bill requires both DEP and BPU to adopt rules to implement the WQAA, and to review more complicated asset management plans from water purveyors. It requires the DEP and OHSP to review certifications related to cybersecurity from water purveyors. It also requires the DEP to develop and publish information about public water systems on its website each year. Finally, the

bill requires the DEP to compile a report on the anticipated cost of infrastructure improvements every three years and submit that report to the Legislature and the Governor. These tasks may be able to be subsumed within existing duties using existing staff.

The OLS notes that the bill makes persons who violate a provision of the WQAA subject to the administrative penalties set forth in the Safe Drinking Water Act. However, the OLS does not anticipate a significant revenue increase to the State as a result of this provision.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Assistant Research Analyst*

*Approved: Frank W. Haines III
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.).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 30, 2020

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual State and local expenditure increases.
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.
- The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). The most significant increase would likely result from the requirement that the DEP audit at least 10 percent of public water systems annually for compliance with the provisions

of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm.

BILL DESCRIPTION

This bill would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA, and increase the oversight responsibilities of the DEP, BPU, and OHSP in relation to the WQAA.

Regarding cybersecurity, the bill would require each water purveyor in the State to obtain a cybersecurity insurance policy. The bill would also require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public water system's industrial control systems, conforming the programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements to the DEP, BPU, and OHSP. The bill also would remove the exemption from cybersecurity related requirements currently in the WQAA for water purveyors that do not have an internet-connected control system.

The bill would require the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the OHSP to audit, for compliance with the cybersecurity provisions of the WQAA, any public water system that fails to submit its cybersecurity program, any updates to the program, or its cybersecurity certification. In addition, the bill would require the NJCCIC, no later than 30 days after receiving a report of a cybersecurity incident from a water purveyor, to audit the water purveyor's cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident.

Regarding asset management, the bill would require water purveyors, within 18 months after its effective date, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; (4) the life cycle costs of the public water system's assets; and (5) a long-term funding strategy to implement the water purveyor's asset management plan.

Regarding reporting, the bill would require each water purveyor, within one year after its effective date and every three years thereafter, to submit to the DEP a detailed report on its asset management plan, which would identify: (1) the infrastructure improvements completed in the past three years and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements.

The bill would require the DEP to annually audit for compliance with the requirements of the WQAA a random selection of at least 10 percent of all public water systems in the State. In addition, the bill would require the DEP to audit any public water system that fails to submit the certification required pursuant to section 6 of the WQAA. The bill also would require the DEP to develop and publish on its website a report card for each water purveyor in the State, and to conduct an assessment of certain data submitted by water purveyors under the WQAA.

Finally, the bill would require the DEP and the BPU to adopt rules and regulations to implement the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA. The OLS cannot quantify this increase due to the unavailability of information about the extent of water purveyors' existing cybersecurity programs and asset management plans. The OLS notes that there are about 300 government and privately-owned water purveyors in the State to which the requirements of this bill will apply.

One significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor. In addition, the bill would require water purveyors to update their cybersecurity programs to conform to certain industry standards and to certify this update to the State. Certain water purveyors may already have cybersecurity plans that conform to the industry standards, in which case they would only face the marginal costs associated with certifying their plans. Other water purveyors may need to update their programs, which may require outside consultants and additional expenditures. The bill also removes an exemption for water purveyors that do not have internet connected control systems, which may mean that additional water purveyors would need to conform to the cybersecurity regulations in this bill and the WQAA. However, it is uncertain how many water purveyors are in this situation.

The bill would also require water purveyors to revise their asset management plans to include detailed information about the water system's infrastructure, service goals, costs, and priorities for replacing infrastructure, and to complete and submit to the State a more detailed report on its asset management plan than is currently required under the WQAA. Certain water purveyors may already have an asset management plan that meets the new requirements or be prepared to complete the more detailed report. However, for those that are not, complying with these provisions may require the use of outside consultants.

The OLS also determines that the bill would result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the DEP, the BPU, and the OHSP. The most significant increase would likely result from the requirement that the DEP audit at least 10 percent of public water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. In addition, the bill requires the OHSP and the DEP to audit a water purveyor that fails to meet certain requirements of the WQAA or has its computer security systems breached. The resultant expenditure increases cannot be estimated because it is unclear how many water purveyors will require auditing under these conditions and how extensive the audits conducted by the DEP or the OHSP will be. Additional annual expenditure increases will likely result from other provisions of the bill that increase oversight related to the WQAA, including a provision that requires the DEP and BPU to adopt rules and regulations to implement the WQAA. However, these tasks may be able to be subsumed within the duties of existing staff.

Finally, the OLS notes that the bill makes persons who violate a provision of the WQAA subject to the administrative penalties set forth in the Safe Drinking Water Act. However, the OLS does not anticipate a significant revenue increase to the State as a result of this provision.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Associate Research Analyst*

*Approved: Frank W. Haines III
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.).

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: SEPTEMBER 1, 2020

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual State and local expenditure increases.
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.
- The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness

(OHSP). The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it would do so.

BILL DESCRIPTION

This bill would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA, and increase the oversight responsibilities of the DEP, BPU, and OHSP in relation to the WQAA.

Regarding cybersecurity, the bill would require each water purveyor in the State to obtain a cybersecurity insurance policy. The bill would also require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public community water system's industrial control systems, conforming the programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements to the DEP, BPU, and OHSP. The bill also would remove, from existing law, the exemption from cybersecurity-related requirements for water purveyors that do not have an internet-connected control system.

The bill would require the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the OHSP to cause to be audited, for compliance with the cybersecurity provisions of the WQAA, any public community water system that fails to submit its cybersecurity program, any revision to the program, or its cybersecurity certification. In addition, the bill would require the NJCCIC, no later than 30 days after receiving a report of a cybersecurity incident from a water purveyor, to cause to be audited the water purveyor's cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident. Under the bill, cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

Regarding asset management, the bill would require water purveyors, within 18 months after the effective date of the bill, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and evaluation of the condition of certain types of the public community water system's assets; (2) level of service goals for the public community water system based upon industry standards; (3) a priority order in which the public community water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan.

Regarding reporting, the bill would require each water purveyor to submit to the DEP a detailed annual report on its asset management plan, which would identify: (1) the infrastructure improvements completed in the past three years and the cost of those improvements; (2) the infrastructure improvements generally planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that may be required over the next 10 years and the estimated cost of those improvements. Compliance with these reporting requirements could also be demonstrated through the completion of a detailed, comprehensive planning study, facility master planning study, or other long-range planning study.

The bill would require the DEP to annually audit, or cause to be audited, for compliance with the requirements of the WQAA a random selection of at least 10 percent of all public community water systems in the State. In addition, the bill would require the DEP to audit, or cause to be

audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA. The bill also would require the DEP to develop and publish on its website a report card for each water purveyor in the State indicating the water purveyor's compliance with certain State and federal laws, and to conduct an assessment of certain data submitted by water purveyors under the WQAA.

Finally, the bill would require the DEP and the BPU to adopt rules and regulations to implement the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil administrative penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA. The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. The OLS notes that there are about 300 government and privately-owned water purveyors in the State to which the requirements of this bill will apply.

One significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor. In addition, the bill would require water purveyors to update their cybersecurity programs to conform to certain industry standards and to certify this update to the State. Certain water purveyors may already have cybersecurity plans that conform to the industry standards, in which case they would only face the marginal costs associated with certifying their plans. Other water purveyors may need to update their programs, which may require outside consultants and additional expenditures. The bill would also remove from existing law an exemption from cybersecurity-related requirements for water purveyors that do not have internet connected control systems. Consequently, additional water purveyors may need to conform to the cybersecurity regulations in this bill and the WQAA. However, it is uncertain how many water purveyors are in this situation.

The bill would require water purveyors to revise their asset management plans to include detailed information about the water system's infrastructure, level of service goals, priorities for replacing infrastructure, and a long-term funding strategy to implement the plan. The bill would also require a water purveyor to complete and submit to the State a more detailed report on its asset management plan than is currently required under the WQAA, or to, alternatively, conduct certain comprehensive planning studies. Certain water purveyors may already have completed an asset management plan or comprehensive planning study that meets the new requirements or be prepared to complete the more detailed report. However, for those that are not, complying with these provisions may require the use of outside consultants.

The OLS also determines that the bill would result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the DEP, the BPU, and the OHSP. The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it will do so. Additional annual expenditure increases will likely result from other provisions of the bill that increase oversight related to the WQAA, including a provision that requires the DEP and BPU to adopt rules and regulations to implement the WQAA. However, these tasks may be able to be subsumed within the duties of existing staff.

Finally, the OLS notes that the bill makes persons who violate a provision of the WQAA subject to the administrative penalties set forth in the "Safe Drinking Water Act." However, the OLS does not anticipate a significant revenue increase to the State as a result of this provision.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Associate Research Analyst*

*Approved: Frank W. Haines III
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.).

LEGISLATIVE FISCAL ESTIMATE
 [Third Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 17, 2021

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual State and local expenditure increases.
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.
- The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). The most significant increase would likely result from the requirement that the DEP

audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it would do so.

BILL DESCRIPTION

This bill would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA, and increase the oversight responsibilities of the DEP, BPU, and OHSP in relation to the WQAA.

Regarding cybersecurity, the bill would require each water purveyor in the State to obtain a cybersecurity insurance policy. The bill would also require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public community water system's industrial control systems, conforming the programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements to the DEP, BPU, and OHSP. The bill also would remove, from existing law, the exemption from cybersecurity-related requirements for water purveyors that do not have an internet-connected control system.

The bill would require the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the OHSP to cause to be audited, for compliance with the cybersecurity provisions of the WQAA, any public community water system that fails to submit its cybersecurity program, any revision to the program, or its cybersecurity certification. In addition, the bill would require the NJCCIC, no later than 30 days after receiving a report of a cybersecurity incident from a water purveyor, to cause to be audited the water purveyor's cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident. Under the bill, cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

Regarding asset management, the bill would require water purveyors, within 18 months after the effective date of the bill, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and evaluation of the condition of certain types of the public community water system's assets; (2) level of service goals for the public community water system based upon industry standards; (3) a priority order in which the public community water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan.

Regarding reporting, the bill would require each water purveyor to submit to the DEP a detailed annual report on its asset management plan, which would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements generally planned to be undertaken in the next 3 years and the estimated cost of those improvements; and (3) the infrastructure improvements that may be required over the next 10 years and the estimated cost of those improvements. Compliance with these reporting requirements could also be demonstrated through the completion of a detailed, comprehensive planning study, facility master planning study, or other long-range planning study.

The bill would require the DEP to annually audit, or cause to be audited, for compliance with the requirements of the WQAA a random selection of at least 10 percent of all public community water systems in the State. In addition, the bill would require the DEP to audit, or cause to be

audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA. The bill also would require the DEP to develop and publish on its website a report card for each water purveyor in the State indicating the water purveyor's compliance with certain State and federal laws, and to conduct an assessment of certain data submitted by water purveyors under the WQAA.

Finally, the bill would require the DEP and the BPU to adopt rules and regulations to implement the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil administrative penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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Finally, the OLS notes that the bill makes persons who violate a provision of the WQAA subject to the administrative penalties set forth in the "Safe Drinking Water Act." However, the OLS does not anticipate a significant revenue increase to the State as a result of this provision.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Neha Patel
Senior Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [Fourth Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 647
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MARCH 24, 2021

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual State and local expenditure increases.
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.
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FISCAL ANALYSIS

EXECUTIVE BRANCH

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OFFICE OF LEGISLATIVE SERVICES

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Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Associate Research 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. 4825

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman Benson, Assemblywomen Chaparro and Murphy

SYNOPSIS

Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2021)

1 AN ACT concerning cybersecurity and asset management at public
2 community water systems and amending and supplementing
3 P.L.2017, c.133.

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

7
8 1. Section 2 of P.L.2017, c.133 (C.58:31-2) is amended to read
9 as follows:

10 2. As used in **[this act]** P.L.2017, c.133 (C.58:31-1 et seq.):

11 "Board" means the Board of Public Utilities.

12 "Cybersecurity incident" means an event occurring on or
13 conducted through a computer network that jeopardizes the
14 integrity, confidentiality, or availability of computers, information
15 systems, communications systems, networks, physical or virtual
16 infrastructure controlled by computers or information systems, or
17 information residing thereon.

18 "Cybersecurity insurance policy" means an insurance policy
19 designed to mitigate losses from cybersecurity incidents, including,
20 but not limited to, data breaches, business interruption, and network
21 damage.

22 "Department" means the Department of Environmental
23 Protection.

24 "Industrial control system" means an information system used to
25 control industrial processes such as manufacturing, product
26 handling, production, or distribution. "Industrial control system"
27 includes supervisory control and data acquisition systems used to
28 control geographically dispersed assets, and distributed control
29 systems and smaller control systems using programmable logic
30 controllers to control localized processes.

31 "Information resource" means information and related resources,
32 such as personnel, equipment, funds, and information technology.

33 "Information system" means a discrete set of information
34 resources organized for the collection, processing, maintenance,
35 use, sharing, dissemination, or disposition of information.

36 "New Jersey Cybersecurity and Communications Integration
37 Cell" means the New Jersey Cybersecurity and Communications
38 Integration Cell established pursuant to Executive Order No. 178
39 (2015) in the New Jersey Office of Homeland Security and
40 Preparedness, or any successor entity.

41 "Public community water system" means the same as that term is
42 defined in subsection 1. of section 3 of P.L.1977, c.224 (C.58:12A-
43 3).

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.

1 "Public water system" means the same as the term is defined in
2 section 3 of P.L.1977, c.224 (C.58:12A-3).

3 "Water purveyor" means any person that owns a public
4 community water system with more than 500 service connections.
5 (cf: P.L.2017, c.133, s.2)

6
7 2. Section 4 of P.L.2017, c.133 (C.58:31-4) is amended to read
8 as follows:

9 4. a. Within 120 days after the effective date of **[this act]**
10 P.L.2017, c.133 (C.58:31-1 et seq.), each water purveyor shall
11 develop a cybersecurity program, in accordance with requirements
12 established by the **[board]** New Jersey Cybersecurity and
13 Communications Integration Cell, as rules and regulations adopted
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), that defines and implements organization
16 accountabilities and responsibilities for cyber risk management
17 activities, and establishes policies, plans, processes, and procedures
18 for identifying and mitigating cyber risk to its public community
19 water system. As part of the cybersecurity program, a water
20 purveyor shall: identify the individual chiefly responsible for
21 ensuring that the policies, plans processes, and procedures
22 established pursuant to this section are executed in a timely manner;
23 conduct risk assessments and implement appropriate controls to
24 mitigate identified risks to the public community water system **[,]** ;
25 maintain situational awareness of cyber threats and vulnerabilities
26 to the public community water system **[,]** ; and create and exercise
27 incident response and recovery plans. No later than 180 days after
28 the effective date of P.L. , c. (C.) (pending before the
29 Legislature as this bill), a water purveyor shall update its
30 cybersecurity program to conform to the requirements of section 3
31 of P.L. , c. (C.)(pending before the Legislature as this bill).

32 A water purveyor shall submit a copy of the cybersecurity
33 program developed pursuant to this subsection **[shall be provided]**
34 to the New Jersey Cybersecurity and Communications Integration
35 Cell, **[established pursuant to Executive Order No. 178 (2015) in**
36 the New Jersey Office of Homeland Security and Preparedness**]** in
37 a form and manner as determined by the New Jersey Cybersecurity
38 and Communications Integration Cell. A cybersecurity program
39 submitted pursuant to this subsection shall not be considered a
40 government record under P.L.1963, c.73 (C.47:1A-1 et seq.), and
41 shall not be made available for public inspection.

42 b. Within 60 days after developing the cybersecurity program
43 required pursuant to subsection a. of this section, each water
44 purveyor shall join the New Jersey Cybersecurity and
45 Communications Integration Cell **[,]** established pursuant to

1 Executive Order No. 178 (2015),**】** and create a cybersecurity
2 incident reporting process.

3 c. **【**A water purveyor that does not have an internet-connected
4 control system shall be exempt from the requirements of this
5 section.**】** (Deleted by amendment, P.L. , c. (pending before the
6 Legislature as this bill)

7 d. No later than 180 days after the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 each water purveyor shall obtain a cybersecurity insurance policy
10 that meets any applicable standards adopted by the board.
11 (cf: P.L.2017, c.133, s.4)

12
13 3. (New section) a. In addition to the requirements of section 4
14 of P.L.2017, c.133 (C.58:31-4), and the requirements established by
15 the board pursuant thereto, no later than 180 days after the effective
16 date of P.L. , c. (C.) (pending before the Legislature as this
17 bill), each water purveyor shall update its cybersecurity program
18 developed pursuant to section 4 of P.L.2017, c.133 (C.58:31-4) to
19 apply to all of the public community water system's industrial
20 control systems, and to reasonably conform to the most recent
21 version of one or more of the following industry-recognized
22 cybersecurity frameworks:

23 (1) the Framework for Improving Critical Infrastructure
24 Cybersecurity developed by the National Institute of Standards and
25 Technology;

26 (2) the Center for Internet Security Critical Security Controls for
27 Effective Cyber Defense; or

28 (3) the International Organization for Standardization and
29 International Electrotechnical Commission 27000 family of
30 standards for an information security management system.

31 b. Whenever a final revision to one or more of the frameworks
32 listed in subsection a. of this section is published, a water purveyor
33 whose cybersecurity program reasonably conformed to that
34 framework shall revise its cybersecurity program to reasonably
35 conform to the revised framework, and submit a copy of the revised
36 cybersecurity program to the New Jersey Cybersecurity and
37 Communications Integration Cell, no later than 180 days after
38 publication of the revised framework.

39 c. No later than one year after the effective date of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 and each year thereafter, each water purveyor shall submit to the
42 board, the department, and the New Jersey Cybersecurity and
43 Communications Integration Cell a certification demonstrating that
44 the water purveyor is in compliance with the requirements of this
45 section. The certification shall be made in the form and manner as
46 determined by the department, in consultation with the New Jersey
47 Cybersecurity and Communications Integration Cell. The

1 certification shall be signed by the responsible corporate officer of
2 the public community water system, if privately held, executive
3 director, if an authority, or mayor or chief executive officer of the
4 municipality, if municipally owned, as applicable.

5 d. The New Jersey Cybersecurity and Communications
6 Integration Cell shall cause to be audited, for compliance with the
7 requirements of section 4 of P.L.2017, c.133 (C.58:31-4) and this
8 section, any public community water system that fails to submit a
9 cybersecurity program as required pursuant to subsection a. of
10 section 4 of P.L.2017, c.133 (C.58:31-4), a revision pursuant to
11 subsection b. of this section, or a certification pursuant to this
12 section. Any audit shall be conducted by a qualified and
13 independent cybersecurity company, at the water purveyor's
14 expense. Following the audit, the water purveyor shall submit the
15 audit and any corrective action plans derived from the audit to the
16 New Jersey Cybersecurity and Communications Integration Cell.

17 e. A water purveyor shall, upon the request of the board, the
18 department, or the New Jersey Cybersecurity and Communications
19 Integration Cell, provide proof of compliance with the requirements
20 of this section, in a form and manner as determined by the board,
21 the department, or by the New Jersey Cybersecurity and
22 Communications Integration Cell.

23 f. The board shall update any requirements it has established for
24 cybersecurity programs pursuant to subsection a. of section 4 of
25 P.L.2017, c.133 (C.58:31-4) to conform to the requirements of this
26 section.

27
28 4. (New section) a. Beginning 90 days after the effective date
29 of P.L. , c. (C.) (pending before the Legislature as this
30 bill), a water purveyor shall report to the New Jersey Cybersecurity
31 and Communications Integration Cell, promptly after an employee
32 is made aware of a cybersecurity incident, and in accordance with
33 all applicable laws, rules, and regulations:

34 (1) any cybersecurity incident that results in the compromise of
35 the confidentiality, integrity, availability, or privacy of the water
36 purveyor's utility billing, communications, data management, or
37 business information systems, or the information thereon; and

38 (2) any cybersecurity incident against the water purveyor's
39 industrial control system, including monitoring, operations, and
40 centralized control systems, that adversely impact, disable, or
41 manipulate infrastructure, resulting in loss of service, contamination
42 of finished water, or damage to infrastructure.

43 b. No later than 30 days after receiving a report of a
44 cybersecurity incident from a water purveyor pursuant to subsection
45 a. of this section, the New Jersey Cybersecurity and
46 Communications Integration Cell shall cause to be audited the water
47 purveyor's cybersecurity program and any actions the water

1 purveyor took in response to the cybersecurity incident. The audit
2 shall identify cyber threats and vulnerabilities to the public
3 community water system, weaknesses in the public community
4 water system's cybersecurity program, and strategies to address
5 those weaknesses so as to protect the public community water
6 system from the threat of future cybersecurity incidents. Any audit
7 shall be conducted by a qualified and independent cybersecurity
8 company, at the water purveyor's expense. Following the audit, the
9 water purveyor shall submit the audit and any corrective action
10 plans derived from the audit to the New Jersey Cybersecurity and
11 Communications Integration Cell.

12

13 5. Section 6 of P.L.2017, c.133 (C.58:31-6) is amended to read
14 as follows:

15 6. a. In addition to any other certifications required pursuant to
16 law, rule, or regulation, the responsible corporate officer of the
17 public community water system, if privately held, executive
18 director, if an authority, or mayor or chief executive officer of the
19 municipality, if municipally owned, as applicable, shall be required
20 to certify in writing each year to the **【Department of Environmental**
21 **Protection】** department and, if applicable, the **【Board of Public**
22 **Utilities】** board, in a form and manner as determined by the
23 department, that the water purveyor complies with: all federal and
24 State drinking water regulations, including water quality sampling,
25 testing, and reporting requirements; the hydrant and valve
26 requirements set forth in section 3 of **【this act】** P.L.2017, c.133
27 (C.58:31-3); the notice of violation mitigation plan requirements set
28 forth in section 5 of **【this act】** P.L.2017, c.133 (C.58:31-5), if
29 applicable; and the infrastructure improvement investment required
30 pursuant to section 7 of **【this act】** P.L.2017, c.133 (C.58:31-7). A
31 water purveyor shall post the annual certification required pursuant
32 to this section on its Internet website, if applicable.

33 b. The department shall audit, or cause to be audited, for
34 compliance with the requirements of P.L.2017, c.133 (C.58:31-7),
35 any public community water system that fails to submit the
36 certification required pursuant to subsection a. of this section in a
37 timely manner. If the department finds that a water purveyor has
38 made a false or misleading statement in a certification submitted
39 pursuant to subsection a. of this section, the department shall
40 forward the matter to the Attorney General for further investigation
41 and, if necessary, criminal prosecution or other appropriate relief,
42 pursuant to any applicable State or federal law, rule, or regulation.

43 c. The department shall annually audit, or cause to be audited,
44 for compliance with the requirements of P.L.2017, c.133 (C.58:31-
45 7) a random selection of at least 10 percent of all public community
46 water systems in the State.

1 d. The department may require a water purveyor to pay the cost
2 of an audit ordered pursuant to this section.

3 (cf: P.L.2017, c.133, s.6)

4

5 6. Section 7 of P.L.2017, c.133 (C.58:31-7) is amended to read
6 as follows:

7 7. a. Beginning no later than 18 months after the effective date
8 of **【this act】** P.L.2017, c.133 (C.58:31-1 et seq.), every water
9 purveyor shall implement an asset management plan designed to
10 inspect, maintain, repair, and renew its infrastructure consistent
11 with standards established by the American Water Works
12 Association. The asset management plan shall include:

13 (1) a water main renewal program designed to achieve a 150-
14 year replacement cycle, or other appropriate replacement cycle as
15 determined by a detailed engineering analysis of the asset condition
16 and estimated service lives of the water mains serving the public
17 community water system , or by the department ;

18 (2) a water supply and treatment program designed to inspect,
19 maintain, repair, renew, and upgrade wells, intakes, pumps, and
20 treatment facilities in accordance with all federal and State
21 regulations, standards established by the American Water Works
22 Association, and any mitigation plan required pursuant to section 5
23 of **【this act】** P.L.2017, c.133 (C.58:31-5); and

24 (3) any other programs, plans, or provisions as may be required
25 by the department pursuant to rules and regulations adopted
26 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
27 (C.52:14B-1 et seq.).

28 Each water purveyor shall dedicate adequate funds on an annual
29 basis to address and remediate the highest priority projects as
30 determined by its asset management plan.

31 All asset management plans and system condition reports shall
32 be certified to by the licensed operator or professional engineer of
33 the public community water system and the responsible corporate
34 officer of the public community water system, if privately held,
35 executive director, if an authority, or mayor or chief executive
36 officer of the municipality, if municipally owned, as applicable.
37 The replacement cycle shall be determined by dividing the miles of
38 water main located in the public community water system by 150 or
39 other appropriate demonstration set forth in the certified asset
40 management plan prepared pursuant to this section.

41 b. **【At least once every three years】** No later than one year
42 after the effective date of P.L. , c. (C.) (pending before
43 the Legislature as this bill), and each year thereafter, each water
44 purveyor shall provide to the department and the board, if
45 applicable, a report based on its asset management plan prepared
46 pursuant to subsection a. of this section identifying **【the**
47 **infrastructure improvements to be undertaken in the coming year**

1 and the cost of those improvements, as well as identifying the
2 infrastructure improvements completed in the past year and the cost
3 of those improvements¹: (1) the infrastructure improvements
4 completed in the past three years and the cost of those
5 improvements, including improvements funded by emergency and
6 routine capital spending; (2) the infrastructure improvements
7 generally planned to be undertaken in the next three years and the
8 estimated cost of those improvements; and (3) the infrastructure
9 improvements that may be required over the next 10 years and the
10 estimated cost of those improvements. Compliance with this
11 subsection may be demonstrated through the submission of
12 evidence of completion of a detailed, comprehensive planning
13 study, facility master planning study, or other long range planning
14 study that is intended for use in developing three- and ten-year
15 capital improvement plans. A detailed comprehensive planning
16 study, facility master planning study, or other long range planning
17 study submitted pursuant to this subsection shall not be considered
18 a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.),
19 and shall not be made available for public inspection. A municipal
20 water department or municipal water authority shall also submit the
21 report required pursuant to this subsection to the Division of Local
22 Government Services in the Department of Community Affairs. A
23 water purveyor shall, upon request, provide a copy of its asset
24 management plan to the department, the board, or the Division of
25 Local Government Services in the Department of Community
26 Affairs.

27 c. The department, the board, and the Department of
28 Community Affairs shall create a centralized portal allowing for
29 electronic submittal of the report required pursuant to subsection b.
30 of this section. The lack of a centralized portal pursuant to this
31 subsection shall not negate the requirement for a water purveyor to
32 submit a report pursuant to subsection b. of this section.

33 (cf: P.L.2017, c.133, s.7)

34

35 7. (New section) a. In addition to the requirements of section
36 7 of P.L.2017, c.133 (C.58:31-7), no later than 18 months after the
37 effective date of P.L. , c. (C.) (pending before the
38 Legislature as this bill), each water purveyor shall revise its asset
39 management plan developed pursuant to section 7 of P.L.2017,
40 c.133 (C.58:31-7) to include:

41 (1) a comprehensive inventory, mapping, and evaluation of the
42 condition of the public community water system's following asset
43 classes: transmission and distribution piping, valves, service lines,
44 hydrants, water treatment plant facilities, and water supply facilities
45 including wells, reservoirs, and intakes;

46 (2) level of service goals for the public community water
47 system, based upon industry standards such as those established by

1 the American Water Works Association, which may include, but
2 need not be limited to, goals related to customer service and
3 accountability, energy and water efficiency and conservation, water
4 main breaks and service interruptions, and social and environmental
5 considerations;

6 (3) a priority order in which the public community water
7 system's assets, identified in the comprehensive inventory prepared
8 pursuant to paragraph (1) of this subsection, will be repaired or
9 replaced as part of the water purveyor's asset management plan,
10 based on each assets' importance to the proper function of the
11 public community water system, or business risk exposure; and

12 (4) a long-term funding strategy to implement the water
13 purveyor's asset management plan, including funding sources and
14 estimated annual expenditures to address prioritized repairs,
15 upgrades, and treatment.

16 b. The department shall, pursuant to the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
18 and regulations to implement the requirements of this section.

19

20 8. (New section) Any person who violates the provisions of
21 P.L.2017, c.133 (C.58:31-1 et seq.), or any rule or regulation
22 adopted pursuant thereto, shall be subject to the penalties and other
23 remedies set forth in section 10 of P.L.1977, c.224 (C.58:12A-10).
24 No later than 180 days after the effective date of
25 P.L. , c. (C.) (pending before the Legislature as this bill),
26 the department shall adopt, pursuant to the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of
28 civil administrative penalties to be applied pursuant to this section
29 for specific violations of P.L.2017, c.133 (C.58:31-1 et seq.).

30

31 9. (New section) No later than one year after the effective date
32 of P.L. , c. (C.) (pending before the Legislature as this
33 bill), and annually thereafter, the department shall develop and
34 publish on its Internet website a report card for each water purveyor
35 in the State, indicating the water purveyor's compliance with
36 federal and State drinking water quality standards, its compliance
37 with the requirements of P.L.2017, c.133 (C.58:31-1 et seq.), and
38 any other factors the department deems appropriate. The report
39 card shall be designed to inform the public about the overall
40 condition of a public community water system, and the quality of
41 water coming from the public community water system.

42

43 10. (New section) No later than 18 months after the effective
44 date of P.L. , c. (C.) (pending before the Legislature as
45 this bill), and every three years thereafter, the department shall
46 prepare and submit a report to the Governor and, pursuant to section
47 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature assessing:

1 a. the data submitted by public community water systems
2 pursuant to subsections b. and c. of section 7 of P.L.2017, c.133
3 (C.58:31-7). The assessment shall include, but need not be limited
4 to, an analysis of the total estimated cost of infrastructure
5 improvements to public community water systems, Statewide,
6 required over the next 10 years; and

7 b. the compliance of public community water systems with the
8 requirements of P.L.2017, c.133 (C.58:31-1 et seq.) and the rules
9 and regulations adopted pursuant thereto.

10

11 11. (New section) The department and the board shall adopt,
12 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.), rules and regulations as are necessary to carry
14 out the provisions of P.L.2017, c.133 (C.58:31-1 et seq.).

15

16 12. Section 3 of P.L.2017, c.133 (C.58:31-3) is amended to read
17 as follows:

18 3. a. Each water purveyor shall inspect each valve in its public
19 community water system in accordance with the provisions of
20 subsection b. of this section in order to determine (1) accessibility
21 of the valve for operational purposes, and (2) the valve's operating
22 condition. A water purveyor shall repair or replace any valve found
23 to be broken or otherwise not operational.

24 b. Each water purveyor shall inspect each valve that is 12 or
25 more inches in diameter at least once every two years, and shall
26 inspect all other valves at least once every four years , except that
27 the requirements of this subsection shall not apply to any service
28 connection valve or customer shut-off valve . At a minimum, each
29 valve inspection conducted pursuant to this subsection shall
30 include:

31 (1) clearing of the area around the valve to ensure full access to
32 the valve for operating purposes;

33 (2) cleaning out of the valve box;

34 (3) dynamic testing of the valve, by opening and then closing
35 the valve for either of the following number of turns:

36 (a) the number of turns recommended by the valve manufacturer
37 to constitute a credible test; or

38 (b) the number of turns which constitutes 15 percent of the total
39 number of turns necessary to completely open or completely close
40 the valve ; and

41 (4) complying with any other criteria as may be required by the
42 department pursuant to rules and regulations adopted pursuant to
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
44 1 et seq.).

45 c. (1) Each water purveyor shall, once a year, test every fire
46 hydrant in its system in order to determine the hydrant's working
47 condition.

1 (2) Each water purveyor shall formulate and implement a plan
2 for flushing every fire hydrant in the public community water
3 system, and every dead end of a main in the public community
4 water system. This plan for flushing may be combined with the
5 periodic testing of fire hydrants required pursuant to paragraph (1)
6 of this subsection.

7 d. Each water purveyor shall keep a record of all inspections,
8 tests, and flushings conducted pursuant to this section for a period
9 of at least six years.

10 e. Each water purveyor that owns, solely or jointly, a fire
11 hydrant shall mark each hydrant with the initials of its name,
12 abbreviation of its name, corporate symbol, or other distinguishing
13 mark or code by which ownership may be readily and definitely
14 ascertained. Each fire hydrant shall be marked with a number or
15 symbol, or both, by which the location of the hydrant may be
16 determined on the water purveyor's office records. The markings
17 may be made with paint, brand, or with a soft metal plate, and shall
18 be of such size and so spaced and maintained as to be easily read.

19 f. Each water purveyor shall identify, to the extent possible,
20 the geographic location of each valve and fire hydrant in its public
21 community water system using a global positioning system based
22 on satellite or other location technology.

23 (cf: P.L.2017, c.133, s.3)

24

25 13. Section 5 of P.L.2017, c.133 (C.58:31-5) is amended to read
26 as follows:

27 5. In addition to any other requirements in law, or any rule or
28 regulation adopted pursuant thereto, whenever a water purveyor is
29 issued , pursuant to section 10 of P.L.1977, c.224 (C.58:12A-10) ,
30 three notices of violation for any reason or two notices of violation
31 related to an exceedance of a maximum contaminant level within
32 any 12-month period, the water purveyor, within 60 days after
33 receipt of the third or second notice, as applicable, shall submit to
34 the department a mitigation plan specifying whether the notice of
35 violation will be addressed through operational changes or require a
36 capital expenditure and providing a schedule for implementation of
37 the mitigation plan. The mitigation plan shall include a report
38 prepared by the licensed operator of the public community water
39 system and a professional engineer licensed pursuant to P.L.1938,
40 c.342 (C.45:8-27 et seq.) that includes a technical analysis of the
41 notices of violation and an explanation of how the mitigation plan
42 submitted pursuant to this section is intended to prevent a
43 recurrence of the issue that resulted in the notice of violation. Any
44 capital expenditures required pursuant to this section shall be
45 incorporated into the asset management plan required pursuant to
46 section 7 of **[this act]** P.L.2017, c.133 (C.58:31-7).

47 (cf: P.L.2017, c.133, s.5)

1 14. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill revises the cybersecurity, asset management, and
7 related reporting requirements in the “Water Quality Accountability
8 Act” (WQAA), and adoption of rules and regulations implementing
9 the WQAA. The bill also amends the WQAA to provide the law
10 applies to “public community water systems” instead of “public
11 water systems,” and defines the term “public community water
12 system” as the term is defined in the “Safe Drinking Water Act,”
13 P.L.1977, c.224 (C.58:12A-1 et seq.).

14 The WQAA currently requires water purveyors to develop
15 cybersecurity programs and obtain cybersecurity insurance. The
16 bill requires water purveyors to update their cybersecurity programs
17 to meet new requirements within 180 days after its effective date.
18 These new requirements include updating cybersecurity programs to
19 apply to all of the public water system’s industrial control systems,
20 reasonably conforming these programs to the most recent version of
21 certain industry-recognized cybersecurity frameworks, and annually
22 certifying compliance with these requirements. The bill requires
23 water purveyors, beginning 90 days after its effective date, to report
24 promptly to the New Jersey Cybersecurity and Communications
25 Integration Cell (NJCCIC) cybersecurity incidents. The bill directs
26 the NJCCIC to develop requirements for the water purveyors’
27 cybersecurity programs and requires the water purveyors submit
28 their cybersecurity plans and revisions to the NJCCIC. The bill
29 deletes the exemption for water purveyors that do not have an
30 internet-connected control system.

31 The WQAA currently requires water purveyors, as part of their
32 asset management plans, to develop a water main renewal program
33 designed to achieve a 150-year replacement cycle, or other
34 appropriate replacement cycle as determined by a detailed
35 engineering analysis. Additionally, the bill requires each water
36 purveyor, within one year after its effective date and every year
37 thereafter, to submit to the DEP a more detailed report based on its
38 asset management plan. The report is to identify: (1) the
39 infrastructure improvements completed in the past three years and
40 the cost of those improvements; (2) the infrastructure improvements
41 planned to be undertaken in the next three years and the estimated
42 cost of those improvements; and (3) the infrastructure
43 improvements that will be required over the next 10 years and the
44 estimated cost of those improvements. The bill also requires a
45 water purveyor to provide, upon request, a copy of its asset
46 management plan to the DEP, the BPU, or the Division of Local
47 Government Services in the Department of Community Affairs.

1 The bill further requires water purveyors, within 18 months after
2 its effective date, to revise their asset management plans to include:
3 (1) a comprehensive inventory, mapping, and condition assessment
4 of the public water system's assets; (2) level of service goals for the
5 public water system; (3) a priority order in which the public water
6 system's assets will be repaired or replaced as part of the water
7 purveyor's asset management plan; and (4) a long-term funding
8 strategy to implement the water purveyor's asset management plan.
9 Compliance may be demonstrated through the submission of
10 evidence of completion of a detailed, comprehensive planning
11 study, facility master planning study, or other long range planning
12 study that is intended for use in developing three- and ten-year
13 capital improvement plans. A water purveyor's detailed
14 comprehensive planning study, facility master planning study, or
15 other long range planning study submitted pursuant to these
16 requirements shall not be considered a government record and shall
17 not be made available for public inspection. Water purveyors are
18 required to post the annual certification, required by the WQAA, on
19 their Internet websites, if applicable.

20 The bill also requires the DEP, within one year after its effective
21 date and annually thereafter, to develop and publish on its Internet
22 website a report card for each water purveyor in the State,
23 indicating the water purveyor's compliance with federal and State
24 drinking water quality standards, its compliance with the
25 requirements of the WQAA, and any other factors the DEP deems
26 appropriate. The report card is to be designed to inform the public
27 about the overall condition of a public water system, and the quality
28 of water coming from the public water system.

29 Additionally, the bill requires the DEP, within 18 months after
30 its effective date and every three years thereafter, to conduct an
31 assessment of certain data submitted by water purveyors under the
32 WQAA. The assessment is to include, but need not be limited to,
33 an analysis of the total, Statewide estimated cost of infrastructure
34 improvements to water purveyors required over the next 10 years.
35 The report is also to include an assessment of the compliance of
36 public water systems with the requirements of the WQAA. The
37 department is to submit a report containing the results of each such
38 assessment to the Governor and the Legislature.

39 The bill also authorizes the NJCCIC to audit, for compliance
40 with the cybersecurity provisions of the WQAA, any public
41 community water system that fails to submit its cybersecurity
42 program, any updates to the program, or its cybersecurity
43 certification. These audits may be made by a qualified and
44 independent cybersecurity company at the water purveyor's
45 expense. The bill requires the DEP to audit any public community
46 water system that fails to submit the certification required under
47 section 6 of the WQAA in a timely manner. If the DEP finds that a

1 water purveyor has made a false or misleading statement in a
2 certification submitted pursuant to the WQAA or this bill, the DEP
3 is directed to forward the matter to the Attorney General for further
4 investigation and, if appropriate, criminal prosecution or other
5 relief.

ASSEMBLY SPECIAL COMMITTEE ON INFRASTRUCTURE
AND NATURAL RESOURCES

STATEMENT TO

ASSEMBLY, No. 4825

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2020

The Assembly Special Committee on Infrastructure and Natural Resources reports favorably and with committee amendments Assembly Bill No. 4825.

This bill, as amended by the committee, would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA), P.L.2017, c.133 (N.J.S.A.58:31-1 et seq.), and increase the oversight responsibilities of the Department of Environmental Protection (DEP) and the Office of Homeland Security and Preparedness in relation to the WQAA. The bill would also provide that the WQAA applies to "public community water systems" instead of "public water systems," as those terms are defined in the "Safe Drinking Water Act," P.L.1977, c.224 (N.J.S.A.58:12A-1 et seq.).

Specifically, the bill would require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after enactment of the bill into law. These new requirements include updating cybersecurity programs to apply to all of the public water system's industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements. The bill would also direct the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the Office of Homeland Security and Preparedness to formulate additional requirements for cybersecurity programs. The bill would require water purveyors to submit their cybersecurity plans and revisions to the NJCCIC. The bill would direct the NJCCIC to audit any water purveyor that fails to submit a cybersecurity plan. The bill would remove, from existing law, an exemption from cybersecurity-related requirements of the WQAA for water purveyors that do not have an internet-connected control system. The bill would also require water purveyors to obtain a cybersecurity insurance policy.

In addition, the bill would require water purveyors to report certain cybersecurity incidents (i.e. data breaches and computer hacking) promptly to the NJCCIC. The bill would direct the NJCCIC to audit

the relevant public community water system no later than 30 days after being made aware of an incident. Cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

The bill would require the DEP to annually audit, or cause to be audited, a random selection of at least 10 percent of all public community water systems in the State for compliance with the requirements of the WQAA. The DEP would also be required to audit, or cause to be audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA (N.J.S.A.58:31-6). If the DEP finds that a water purveyor has made a false or misleading statement in the certification, the DEP would forward the matter to the Attorney General for further investigation and, if necessary, criminal prosecution or other appropriate relief.

The WQAA currently requires water purveyors to develop a water main replacement program designed to achieve a replacement cycle of either 150-years or another appropriate duration, as determined by a detailed engineering analysis. This bill would modify this requirement to provide that the DEP may determine an appropriate replacement cycle. Additionally, the bill requires each water purveyor, within one year after enactment of the bill into law and every year thereafter, to submit to the DEP a more detailed report based on its asset management plan than currently required by the WQAA. This report would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements. A water purveyor would be required to provide, upon request, a copy of its asset management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The bill would also require water purveyors, within 18 months after enactment of the bill into law, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan. Compliance may be demonstrated through the submission of evidence of completion of a detailed, comprehensive planning study, facility master planning study, or other long range planning study that is intended for use in developing three- and ten-year capital improvement plans. A water purveyor's detailed comprehensive planning study, facility master planning study, or other long range planning study submitted pursuant to these requirements would not be

considered a government record and would not be made available for public inspection.

The bill would provide that violations of the WQAA are to be subject to the same penalties as violations of the "Safe Drinking Water Act." The bill would direct the DEP, no later than 18 months after the effective date of the bill, to adopt, pursuant to the "Administrative Procedure Act," a schedule of civil administrative penalties for specific violations of the WQAA.

The bill would also require the DEP to develop and publish on its Internet website an annual report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The bill also requires the DEP, within 18 months after enactment and every three years thereafter, to submit a report to the Governor and the Legislature, which includes an analysis of the Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years and an assessment of the compliance of public water systems with the requirements of the WQAA.

Finally, the bill would modify certain valve inspection, fire hydrant identification, and record keeping requirements of the WQAA, as set forth in section 12 of the bill.

As amended by the committee, this bill is identical to Senate Bill No. 647 (SCS) (2R) as also amended by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) provide that the annual report submitted to the DEP by water purveyors, based on their asset management plans, is required to identify the infrastructure improvements completed in the past year, rather than the past three years;

(2) provide that the DEP is to adopt a schedule of civil administrative penalties no later than 18 months after the bill's enactment, rather than 180 days after the bill's enactment;

(3) require water purveyors to inspect certain valves that are 12 or more inches in diameter at least once every four years, rather than every two years, as currently required by the WQAA;

(4) require water purveyors to inspect certain other valves at least once every eight years, rather than every four years, as currently required by the WQAA;

(5) require water purveyors to keep a record of all inspections, tests, and flushings conducted for a period of 12 years, rather than six years, as currently required by the WQAA; and

(6) provide that water purveyors are required to mark their names on fire hydrants they own using metal, plastic, or another durable material, rather than using paint or branding.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4825

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 17, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4825 (1R), with committee amendments.

As amended, this bill, would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA), P.L.2017, c.133 (N.J.S.A.58:31-1 et seq.), and increase the oversight responsibilities of the Department of Environmental Protection (DEP) and the Office of Homeland Security and Preparedness in relation to the WQAA. The bill would also provide that the WQAA applies to "public community water systems" instead of "public water systems," as those terms are defined in the "Safe Drinking Water Act," P.L.1977, c.224 (N.J.S.A.58:12A-1 et seq.).

Specifically, the bill would require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after enactment of the bill into law. These new requirements include updating cybersecurity programs to apply to all of the public water system's industrial control systems, reasonably conforming these programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements. The bill would also direct the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the Office of Homeland Security and Preparedness to formulate additional requirements for cybersecurity programs. The bill would require water purveyors to submit their cybersecurity plans and revisions to the NJCCIC. The bill would direct the NJCCIC to audit any water purveyor that fails to submit a cybersecurity plan. The bill would remove, from existing law, an exemption from cybersecurity-related requirements of the WQAA for water purveyors that do not have an internet-connected control system. The bill would also require water purveyors to obtain a cybersecurity insurance policy.

In addition, the bill would require water purveyors to report certain cybersecurity incidents (i.e. data breaches and computer hacking) promptly to the NJCCIC. The bill would direct the NJCCIC to audit the relevant public community water system no later than 30 days after

being made aware of an incident. Cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

The bill would require the DEP to annually audit, or cause to be audited, a random selection of at least 10 percent of all public community water systems in the State for compliance with the requirements of the WQAA. The DEP would also be required to audit, or cause to be audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA (N.J.S.A.58:31-6). If the DEP finds that a water purveyor has made a false or misleading statement in the certification, the DEP would forward the matter to the Attorney General for further investigation and, if necessary, criminal prosecution or other appropriate relief.

The WQAA currently requires water purveyors to develop a water main replacement program designed to achieve a replacement cycle of either 150-years or another appropriate duration, as determined by a detailed engineering analysis. This bill would modify this requirement to provide that the DEP may determine an appropriate replacement cycle. Additionally, the bill requires each water purveyor, within one year after enactment of the bill into law and every year thereafter, to submit to the DEP and the Board of Public Utilities (BPU), if applicable, a more detailed report based on its asset management plan than currently required by the WQAA. This report would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that will be required over the next 10 years and the estimated cost of those improvements. A water purveyor would be required to provide, upon request, a copy of its asset management plan to the DEP, the BPU, or the Division of Local Government Services in the Department of Community Affairs.

The bill would also require water purveyors, within 18 months after enactment of the bill into law, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and condition assessment of the public water system's assets; (2) level of service goals for the public water system; (3) a priority order in which the public water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan. Compliance may be demonstrated through the submission of evidence of completion of a detailed, comprehensive planning study, facility master planning study, or other long range planning study that is intended for use in developing three- and ten-year capital improvement plans. A water purveyor's detailed comprehensive planning study, facility master planning study, or other long range planning study submitted pursuant to these requirements would not be

considered a government record and would not be made available for public inspection.

The bill would provide that violations of the WQAA are to be subject to the same penalties as violations of the "Safe Drinking Water Act." The bill would direct the DEP, no later than 18 months after the effective date of the bill, to adopt, pursuant to the "Administrative Procedure Act," a schedule of civil administrative penalties for specific violations of the WQAA.

The bill would also require the DEP to develop and publish on its Internet website an annual report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of the WQAA, and any other factors the DEP deems appropriate. The bill also requires the DEP, within 18 months after enactment and every three years thereafter, to submit a report to the Governor and the Legislature, which includes an analysis of the Statewide estimated cost of infrastructure improvements to water purveyors required over the next 10 years and an assessment of the compliance of public water systems with the requirements of the WQAA.

Finally, the bill would modify certain valve inspection, fire hydrant identification, and record keeping requirements of the WQAA, as set forth in section 12 of the bill.

As amended by the committee, this bill is identical to Senate Bill No. 647 (SCS/3R), as also amended by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) clarify that the auditing authority provided to the DEP under the bill would not limit the fiscal oversight authority granted, under current law, to the Division of Local Government Services in the Department of Community Affairs; and

(2) require certain municipalities, counties, and authorities that have capital programs extending beyond three years to identify, in their annual reports to the DEP on their asset management plans, the infrastructure improvements to be undertaken pursuant to their asset management plans in the remaining years of their capital programs, along with the actual or estimated cost of the improvements.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase

due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.

The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it would do so.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4825

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: FEBRUARY 17, 2021

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual State and local expenditure increases.
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.
- The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the

DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it would do so.

BILL DESCRIPTION

This bill would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA, and increase the oversight responsibilities of the DEP, BPU, and OHSP in relation to the WQAA.

Regarding cybersecurity, the bill would require each water purveyor in the State to obtain a cybersecurity insurance policy. The bill would also require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public community water system's industrial control systems, conforming the programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements to the DEP, BPU, and OHSP. The bill also would remove, from existing law, the exemption from cybersecurity-related requirements for water purveyors that do not have an internet-connected control system.

The bill would require the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the OHSP to cause to be audited, for compliance with the cybersecurity provisions of the WQAA, any public community water system that fails to submit its cybersecurity program, any revision to the program, or its cybersecurity certification. In addition, the bill would require the NJCCIC, no later than 30 days after receiving a report of a cybersecurity incident from a water purveyor, to cause to be audited the water purveyor's cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident. Under the bill, cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

Regarding asset management, the bill would require water purveyors, within 18 months after the effective date of the bill, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and evaluation of the condition of certain types of the public community water system's assets; (2) level of service goals for the public community water system based upon industry standards; (3) a priority order in which the public community water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan.

Regarding reporting, the bill would require each water purveyor to submit to the DEP a detailed annual report on its asset management plan, which would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements generally planned to be undertaken in the next 3 years and the estimated cost of those improvements; and (3) the infrastructure improvements that may be required over the next 10 years and the estimated cost of those improvements. Compliance with these reporting requirements could also be demonstrated through the completion of a detailed, comprehensive planning study, facility master planning study, or other long-range planning study.

The bill would require the DEP to annually audit, or cause to be audited, for compliance with the requirements of the WQAA a random selection of at least 10 percent of all public community water systems in the State. In addition, the bill would require the DEP to audit, or cause to be audited, any public community water system that fails to submit the certification required pursuant to section 6 of the WQAA. The bill also would require the DEP to develop and publish on its

website a report card for each water purveyor in the State indicating the water purveyor's compliance with certain State and federal laws, and to conduct an assessment of certain data submitted by water purveyors under the WQAA.

Finally, the bill would require the DEP and the BPU to adopt rules and regulations to implement the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil administrative penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA. The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. The OLS notes that there are about 300 government and privately-owned water purveyors in the State to which the requirements of this bill will apply.

One significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor. In addition, the bill would require water purveyors to update their cybersecurity programs to conform to certain industry standards and to certify this update to the State. Certain water purveyors may already have cybersecurity plans that conform to the industry standards, in which case they would only face the marginal costs associated with certifying their plans. Other water purveyors may need to update their programs, which may require outside consultants and additional expenditures. The bill would also remove from existing law an exemption from cybersecurity-related requirements for water purveyors that do not have internet-connected control systems. Consequently, additional water purveyors may need to conform to the cybersecurity regulations in this bill and the WQAA. However, it is uncertain how many water purveyors are in this situation.

The bill would require water purveyors to revise their asset management plans to include detailed information about the water system's infrastructure, level of service goals, priorities for replacing infrastructure, and a long-term funding strategy to implement the plan. The bill would also require a water purveyor to complete and submit to the State a more detailed report on its asset management plan than is currently required under the WQAA, or to, alternatively, conduct certain comprehensive planning studies. Certain water purveyors may already have completed an asset management plan or comprehensive planning study that meets the new requirements or be prepared to complete the more detailed report. However, for those that are not, complying with these provisions may require the use of outside consultants.

The OLS also determines that the bill would result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the DEP, the BPU, and the OHSP. The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it will do so. Additional annual expenditure increases will likely result from other provisions of the bill that increase oversight related to the WQAA, including a provision that requires the DEP and BPU to adopt rules and regulations to implement the WQAA. However, these tasks may be able to be subsumed within the duties of existing staff.

Finally, the OLS notes that the bill makes persons who violate a provision of the WQAA subject to the administrative penalties set forth in the "Safe Drinking Water Act." However, the OLS does not anticipate a significant revenue increase to the State as a result of this provision.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Neha Patel
Senior 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.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4825

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MARCH 24, 2021

SUMMARY

- Synopsis:** Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act.”
- Type of Impact:** Annual State and local expenditure increases.
- Agencies Affected:** Department of Environmental Protection, Board of Public Utilities, Office of Homeland Security and Preparedness, certain municipalities, and municipal and regional water authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the "Water Quality Accountability Act" (WQAA). The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. However, one significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor.
- The bill would also result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the Department of Environmental Protection (DEP), the Board of Public Utilities (BPU), and the Office of Homeland Security and Preparedness (OHSP). The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually

for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it would do so.

BILL DESCRIPTION

This bill would revise the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA, and increase the oversight responsibilities of the DEP, BPU, and OHSP in relation to the WQAA.

Regarding cybersecurity, the bill would require each water purveyor in the State to obtain a cybersecurity insurance policy. The bill would also require water purveyors to update their cybersecurity programs to meet new requirements within 180 days after its effective date. These new requirements include updating cybersecurity programs to apply to all of the public community water system's industrial control systems, conforming the programs to the most recent version of certain industry-recognized cybersecurity frameworks, and annually certifying compliance with these requirements to the DEP, BPU, and OHSP. The bill also would remove, from existing law, the exemption from cybersecurity-related requirements for water purveyors that do not have an internet-connected control system.

The bill would require the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the OHSP to cause to be audited, for compliance with the cybersecurity provisions of the WQAA, any public community water system that fails to submit its cybersecurity program, any revision to the program, or its cybersecurity certification. In addition, the bill would require the NJCCIC, no later than 30 days after receiving a report of a cybersecurity incident from a water purveyor, to cause to be audited the water purveyor's cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident. Under the bill, cybersecurity audits would be conducted by a qualified and independent cybersecurity company at the water purveyor's expense.

Regarding asset management, the bill would require water purveyors, within 18 months after the effective date of the bill, to revise their asset management plans to include: (1) a comprehensive inventory, mapping, and evaluation of the condition of certain types of the public community water system's assets; (2) level of service goals for the public community water system based upon industry standards; (3) a priority order in which the public community water system's assets will be repaired or replaced as part of the water purveyor's asset management plan; and (4) a long-term funding strategy to implement the water purveyor's asset management plan.

Regarding reporting, the bill would require each water purveyor to submit to the DEP a detailed annual report on its asset management plan, which would identify: (1) the infrastructure improvements completed in the past year and the cost of those improvements; (2) the infrastructure improvements generally planned to be undertaken in the next 3 years and the estimated cost of those improvements; and (3) the infrastructure improvements that may be required over the next 10 years and the estimated cost of those improvements. Compliance with these reporting requirements could also be demonstrated through the completion of a detailed, comprehensive planning study, facility master planning study, or other long-range planning study.

The bill would require the DEP to annually audit, or cause to be audited, for compliance with the requirements of the WQAA a random selection of at least 10 percent of all public community water systems in the State. In addition, the bill would require the DEP to audit, or cause to be audited, any public community water system that fails to submit the certification required pursuant

to section 6 of the WQAA. The bill also would require the DEP to develop and publish on its website a report card for each water purveyor in the State indicating the water purveyor's compliance with certain State and federal laws, and to conduct an assessment of certain data submitted by water purveyors under the WQAA.

Finally, the bill would require the DEP and the BPU to adopt rules and regulations to implement the WQAA. In addition to this general directive to adopt rules, the bill specifically requires the DEP to adopt rules implementing certain new asset management plan requirements and establishing a schedule of civil administrative penalties for violations of the WQAA, and clarifies that the BPU is to adopt its water purveyor cybersecurity program requirements as rules.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would lead to an indeterminate annual expenditure increase for publicly-owned water purveyors—including State entities, certain municipalities, and municipal and regional water authorities—since it increases the cybersecurity, asset management, and reporting requirements for water purveyors under the WQAA. The OLS cannot quantify this increase due to the unavailability of information about the cost of the new requirements, or the extent of water purveyors' existing cybersecurity programs and asset management plans. The OLS notes that there are about 300 government and privately-owned water purveyors in the State to which the requirements of this bill will apply.

One significant expenditure imposed by the bill is the requirement that water purveyors obtain cybersecurity insurance policies. A large water purveyor might expect to pay around \$10,000 annually for such a policy, according to information provided to the OLS by a private water purveyor. In addition, the bill would require water purveyors to update their cybersecurity programs to conform to certain industry standards and to certify this update to the State. Certain water purveyors may already have cybersecurity plans that conform to the industry standards, in which case they would only face the marginal costs associated with certifying their plans. Other water purveyors may need to update their programs, which may require outside consultants and additional expenditures. The bill would also remove from existing law an exemption from cybersecurity-related requirements for water purveyors that do not have internet-connected control systems. Consequently, additional water purveyors may need to conform to the cybersecurity regulations in this bill and the WQAA. However, it is uncertain how many water purveyors are in this situation.

The bill would require water purveyors to revise their asset management plans to include detailed information about the water system's infrastructure, level of service goals, priorities for replacing infrastructure, and a long-term funding strategy to implement the plan. The bill would also require a water purveyor to complete and submit to the State a more detailed report on its asset management plan than is currently required under the WQAA, or to, alternatively, conduct certain comprehensive planning studies. Certain water purveyors may already have completed an asset management plan or comprehensive planning study that meets the new requirements or be prepared to complete the more detailed report. However, for those that are not, complying with these provisions may require the use of outside consultants.

The OLS also determines that the bill would result in indeterminate annual State expenditure increases by imposing additional administrative tasks on the DEP, the BPU, and the OHSP. The most significant increase would likely result from the requirement that the DEP audit, or cause to be audited, at least 10 percent of public community water systems annually for compliance with the provisions of the WQAA. Depending on the manner in which the DEP conducts these audits, this may require the hiring of additional staff or entering into a contract with a private engineering firm. The OLS notes that the bill authorizes the DEP to require a water purveyor to pay the costs of such an audit, but it is unclear under what circumstances it will do so. Additional annual expenditure increases will likely result from other provisions of the bill that increase oversight related to the WQAA, including a provision that requires the DEP and BPU to adopt rules and regulations to implement the WQAA. However, these tasks may be able to be subsumed within the duties of existing staff.

Finally, the OLS notes that the bill makes persons who violate a provision of the WQAA subject to the administrative penalties set forth in the "Safe Drinking Water Act." However, the OLS does not anticipate a significant revenue increase to the State as a result of this provision.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Associate Research 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

11/8/2021

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

S-249/A-1259 (Singleton, Turner/Schaer, DeCroce, Vainieri Huttle) – Requires pharmacy benefits manager providing services within Medicaid program to disclose certain information to DHS

S-324/A-3533 (Diegnan, A.M. Bucco/Benson, Freiman, DeCroce) – Authorizes operators of motor vehicles to display electronic proof of registration; requires MVC to send application for registration renewal to lessee of leased vehicle

SCS for S-399 and 1645/ACS for A-869 and 1380 (Lagana, Weinberg, Stack, Turner, Cunningham/Chiaravalloti, Holley) – Requires residential landlords to install covers on steam radiators upon request of tenant

S-537/A-3110 (Codey/McKeon, Verrelli, Vainieri Huttle) – Establishes certain minimum and maximum temperatures in rooming and boarding houses, dementia care homes, and certain nursing homes and residential health care facilities

S-550/A-1616 (Codey, Pennacchio/Lampitt, Conaway, Vainieri Huttle) – Requires certain student identification cards to contain telephone number for suicide prevention hotline

SCS for S-647/A-4825 (Greenstein, Singleton/McKeon, Karabinchak, Stanley) – Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act”

S-828/A-2101 (Lagana, Greenstein/Swain, Tully, Verrelli) – Requires public utilities and local units to provide notice prior to initiating certain infrastructure projects

S-829/A-2135 (Lagana, Singleton/Tully, Swain, Murphy) – Requires property condition disclosure statement to indicate presence of lead plumbing in residential property

S-830/A-2134 (Lagana, Greenstein/Tully, Swain, Conaway) – Requires public water systems to offer drinking water tests to customers in certain circumstances

S-894/A-3874 (Pou, Greenstein/Lopez, Vainieri Huttle) – Prohibits sale of paint or coating removal products that contain methylene chloride unless purchaser meets certain safety standards for use

S-1010/A-2103 (Lagana, Turner/Swain, Tully, Johnson) – Permits counties and municipalities to bond for alternative fuel vehicles

S-1047/A-1712 (Cryan, Pou/Burzichelli, Karabinchak, Giblin) – Concerns disclosure of certain information prior to sale of real estate

S-1148/A-1221 (Ruiz, Pou/Chaparro, Speight, Wimberly) – Requires emergency contact information and access instructions for social services hotline to be provided to tenants of multiple dwellings

S-1239/A-5131 (Codey/McKeon, Danielsen, Jasey) – Authorizes imposition of fee for connection to municipal electric distribution system

S-1259/A-2628 (Singleton/Murphy) – Concerns labor contractors

S-1726/A-795 (Lagana, Pou/Verrelli, Swain, Zwicker) – Prohibits sale of cosmetic products that have been tested on animals

- S-2727/A-4775 (Pennacchio, Pou/Vainieri Huttle, Jasey, McKnight)** – Establishes Multigenerational Family Housing Continuity Commission; provides municipal guidance to periodically analyze local advancement of commission’s senior citizen housing recommendations
- S-2861/A-5390 (Singleton, Addiego/Quijano, McKnight, Speight)** – Concerns certain restrictive covenants on real property
- S-2996/A-5019 (Testa, Sweeney/McClellan, Taliaferro, Johnson)** – Allows Board of Cosmetology and Hairstyling licensees to operate mobile facilities when providing services
- S-3000/A-4688 (Weinberg, Greenstein/Benson, Verrelli, Vainieri Huttle)** – Codifies and establishes certain network adequacy standards for pediatric primary and specialty care in Medicaid program
- S-3032/A-4855 (Sweeney, Vitale/Benson, Vainieri Huttle, Chiaravalloti)** – Requires DOH to develop Statewide plan for infection control and prevention infrastructure improvements in nursing homes
- S-3091/A-4933 (Addiego, Bateman/Burzichelli, Benson, Mukherji)** – Requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology
- S-3253/A-2619 (Singleton, Ruiz/Murphy, Speight, Mukherji)** – Establishes alternate route to expedite certification of teachers at early college high school programs
- S-3318/A-5893 (Sweeney, Pou/Vainieri Huttle, Caputo, Karabinchak)** – Provides for voluntary contributions by taxpayers on gross income tax returns for Special Olympics New Jersey
- S-3590/A-5536 (Diegnan, Turner/Burzichelli, Giblin)** – Allows formation of limited liability companies by real estate salespersons and broker-salespersons to receive commission income and requires certain disclosures on promotions
- S-3811/A-5769 (Sweeney, Scutari/Reynolds-Jackson, Quijano, Carter)** – Establishes Kean University as public urban research university
- S-3948/A-5896 (Addiego, Gopal/Houghtaling, Downey)** – Authorizes supplemental State aid to school districts receiving certain federal Impact Aid; makes appropriation
- SJR-41/AJR-33 (Cruz-Perez, Addiego/Lopez, McKnight)** – Designates June 2 of each year as “Gun Violence Awareness Day”
- SJR-109/AJR-208 (Weinberg, Pou/McKnight, Benson, Vainieri Huttle)** – Condemns hate and violent extremism and commits to defense of safe and just democracy
- A-637/S-2670 (Caputo, Dancer, Houghtaling/Beach)** – Revises permit and license processes for sports pools operators and online sports pool operators; revises definitions of certain sports events; allows for transactional waiver for sports wagering lounge
- A-853/S-797 (Chiaravalloti, Karabinchak, McKnight/Cunningham, Doherty)** – Prohibits municipal licensure of children operating temporary businesses
- A-2311/S-356 (Calabrese, Jasey/Cryan, Codey)** – Establishes study commission to examine development of mutually beneficial relationships between institutions of higher education and municipalities
- A-3027/S-793 (Lampitt, Jasey, Houghtaling/Cunningham, Singleton)** – Commits \$3 million from Supplemental Workforce Fund for Basic Skill to NJ Community College Consortium for Workforce and Economic Development
- ACS for A-3352/S-3504 (Kennedy, Stanley, Calabrese/Smith)** – Requires certain newly constructed warehouses to be solar-ready buildings

A-3897/S-3263 (Armato, Mazzeo, DiMaso/Beach, Gopal) – Increases fee for New Jersey Waterfowl Stamps

A-4138/S-2701 (Vainieri Huttler, Benson, Giblin/Gopal, Codey) – Requires Department of Human Services to develop public emergency response plan for licensed providers of services to individuals with developmental disabilities

A-4367/S-2794 (Mukherji, Sumter, Taliaferro/Pou, Scutari) – Provides that AOC shall administer program for municipal courts allowing defendants to engage in online plea negotiations, entry of guilty plea, and payment of fine or penalty

A-4484/S-3153 (McKnight, Kennedy, Mukherji, Gove/Pou, Vitale) – Requires State Long-Term Care Ombudsman to establish long-term care advocacy and educational training program

A-4538/S-3131 (Lampitt, Quijano/Pou, A.M. Bucco) – Requires dental insurers to provide credits for reduced usage during coronavirus disease 2019 pandemic

A-4544/S-3150 (Caputo, Jasey, Murphy/Pou, Codey) – Permits school nurse who is retired from TPAF to return to employment for up to two years without reenrollment in TPAF

A-4633/S-2856 (Giblin, DeCroce/Pou) – Permits certain nonresident Certified Public Accountants to provide attest services

A-4831/S-3953 (Chaparro, Kennedy, Murphy/Scutari) – Clarifies classification in this State of criminal offenses committed in other states or under federal law

A-4836/S-3313 (Giblin, Benson, Downey/Pou, Turner) – Establishes task force to evaluate quality, efficacy, costs, and educational outcomes of online courses offered by public and independent institutions of higher education and degree-granting proprietary institutions during COVID-19 pandemic

A-4861/S-3041 (Vainieri Huttler, Armato, Verrelli/Vitale, Gopal) – Requires DOH to publish total number of COVID-19 deaths and cases in long-term care facilities

A-4869/S-2414 (Wirths, Verrelli, Space/Singleton, Madden) – Requires certain bidders for prevailing wage public work to provide proof that prevailing wage will be paid

A-5059/S-3031 (Conaway, Vainieri Huttler, Benson/Sweeney, Vitale) – Requires DOH to establish certain nursing education and professional advancement programs

A-5212/S-3638 (Conaway, Verrelli, Karabinchak/Turner, Diegnan) – Permits dentists to administer vaccines under certain circumstances

A-5751/S-3823 (Swain, Timberlake, Carter, Johnson/Weinberg, Gopal) – Expands State corrections officers training to include topics contributing to their core mission of treating inmates with dignity, fairness, and respect

A-5817/S-3852 (Tully, Swain, Benson/Lagana, Diegnan) – Revises violation and fines for approving or assigning unauthorized individuals as school bus drivers

A-5818/S-3849 (Tully, Swain, Benson/Lagana, Diegnan) – Provides for debarment of school bus contractors for certain violations; requires certain information in pupil transportation contract bid

AJR-204/SJR-105 (Jasey, Benson, Reynolds-Jackson/Cunningham, T. Kean) – Designates April of each year as “Educational Opportunity Fund (EOF) Month” in New Jersey

AJR-238/SJR-123 (Burzichelli/Sweeney, Singleton) – Urges U.S. President and EPA to take appropriate action, through waivers and other reforms, to allow blending of renewable fuels under the federal “Clean Air Act”

Governor Murphy conditionally vetoed the following bills:

S-108/A-169 (Gill, Turner/Caputo, Wirths) – **CONDITIONAL** - Concerns speech rights of student journalists at public schools and public institutions of higher education

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S-2078/A-5008 (Weinberg, Addiego/Lampitt, Benson, Vainieri Huttle) – CONDITIONAL - Establishes “Stillbirth Resource Center” and regional Fetal and Infant Mortality Review Committee, and programs for the prevention and reduction of incidences of stillbirth; expands list of professionals authorized to provide stillbirth-related care

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S-2160/A-5701 (Sweeney, Oroho, Singer/Carter, Lampitt, Jasey) – CONDITIONAL - Creates special education unit within the Office of Administrative Law; requires annual report

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S-2525/A-4274 (Rice, Singleton, Turner/Conaway, Sumter, Stanley) – CONDITIONAL - Expands powers and duties of State Chief Diversity Officer to promote diversity in State government and public contracting

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S-2559/ACS for A-4179 and 4200 (Gopal, Gill/Downey, Conaway, Benson, Houghtaling, Karabinchak) – CONDITIONAL - Revises requirements for health insurance providers and Medicaid to cover services provided using telemedicine and telehealth; appropriates \$5 million

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S-2834/A-5312 (Ruiz, Cunningham/Quijano, Lampitt, McKnight) – CONDITIONAL - Mandates training on culturally responsive teaching for all candidates for teaching certification

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S-2953/A-4785 (Sweeney, Cunningham/Quijano, Verrelli, Mukherji) – CONDITIONAL - Expands scope of inmate reentry assistance and benefits

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S-3238/A-5213 (Ruiz, Pou/Verrelli, McKnight, McKeon) – CONDITIONAL - Establishes New Jersey Easy Enrollment Health Insurance Program

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S-3488/A-5537 (Sweeney, Gopal, O'Scanlon/Burzichelli, Dancer, Spearman) – CONDITIONAL - Modifies certain procedures pertaining to school district regionalization; establishes grant program for cost reimbursement of conducting regionalization feasibility studies; and provides financial incentives for regionalization

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S-3867/A-5868 (Addiego, Singleton/Benson, Verrelli, Vainieri Huttle) – CONDITIONAL - Establishes Opioid Recovery and Remediation Fund and Opioid Recovery and Remediation Fund Advisory Council; provides for funds received from opioid settlements to support substance use disorder prevention and treatment programs

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S-3955/A-5905 (Ruiz/Timberlake, Speight, Spearman) – CONDITIONAL - Establishes “Rental Assistance Navigation Program” in DCA; makes appropriation

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A-1533/S-3321 (Spearman, Reynolds-Jackson, Schaer/Stack, Turner) – CONDITIONAL - Requires reservation of portion of tenant-based vouchers under State rental assistance program for persons displaced due to redevelopment of an affordable housing development; provides displaced persons with affordable housing priority status

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A-2455/S-2204 (Benson, Vainieri Huttie, DeAngelo/Greenstein, Oroho) – CONDITIONAL - Establishes pilot program in DOE to support FIRST Robotics Programs in school districts

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A-3062/S-1196 (Pintor Marin, Moen, Reynolds-Jackson/Pou, Cruz-Perez) – CONDITIONAL - Establishes three year Financial Empowerment Pilot Program

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A-4002/S-2257 (Caputo, Dancer, Murphy/Gopal, Sarlo) – CONDITIONAL - Allows deduction of promotional gaming credit from gross revenue on sports wagering

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A-4433/S-2715 (Greenwald, Mukherji, Lampitt/Beach, Corrado) – CONDITIONAL - Creates grant program to encourage school districts to partner with institutions of higher education in training school-based mental health services providers

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A-4435/S-2717 (Verrelli, Greenwald, Speight, Lampitt/Beach, Corrado) – CONDITIONAL - Requires DCF to give priority to certain school districts with student mental health counseling centers in awarding grants under School Based Youth Services Program

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A-4630/S-577 (Burzichelli/Madden, Singleton) – CONDITIONAL - Concerns labor harmony agreements in retail and distribution center projects

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A-4746/S-3947 (Mosquera, Lopez, Chaparro, Dunn/Vitale, Turner) – CONDITIONAL - Requires that certain provider subsidy payments for child care services be based on enrollment

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A-4834/S-3474 (Mazzeo, Quijano, Downey/Pou, Turner) – CONDITIONAL - Requires disclosure letter be included with mail falsely implying State government connection

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A-4850/S-3095 (Karabinchak, Freiman, Calabrese, Greenwald/Diegnan) – CONDITIONAL - Establishes expedited construction inspection program

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A-5033/S-3279 (Benson, Dancer, Verrelli/Gopal) – CONDITIONAL - Authorizes motor vehicle dealers to sell motor vehicles online and obtain electronic signatures for motor vehicle transactions

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A-5353/S-3421 (Conaway, Vainieri Huttie, Benson/Madden, Turner) – CONDITIONAL - Provides for certification of temporary nurse aides

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A-5599/S-3916 (Chiaravalloti, Vainieri Huttie, McKnight/Scutari, Gill) – CONDITIONAL - Establishes order of protection for current or former judge; upgrades and clarifies harassment against current or former judge; bars firearms possession by persons against whom current or former judge order of protection is entered

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A-5864/S-3939 (Speight, Pintor Marin, Chaparro, McKnight, DeAngelo, Bergen/Gopal, Cryan) – CONDITIONAL - Allows law enforcement officers to review body worn camera recordings prior to creating initial report

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Governor Murphy absolute vetoed the following bills:

S-415/A-4685 (Turner/Quijano, Verrelli) – ABSOLUTE - Requires reentry assistance to be provided to certain inmates who have served their maximum sentence

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S-969/ACS for A-2687 (Ruiz, Turner/Mazzeo, Lampitt, Moen) – CONDITIONAL - Establishes loan redemption program for teachers in certain fields to redeem loan amounts received under New Jersey College Loans to Assist State Students Loan Program through employment in certain low performing schools

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S-2261/A-4265 (Singleton/Conaway) – ABSOLUTE - Revises law relating to common interest communities

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S-2347/A-4030 (Sweeney, Greenstein, T. Kean/Mukherji, Benson, Murphy) – ABSOLUTE - Establishes Employment and Business-Related Tax Deferral Assistance Program in EDA to allow small businesses to defer the payment and remittance of certain employment and business-related taxes during COVID-19 public health emergency

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S-3093/A-4910 (Gopal, Sweeney, Singleton/Burzichelli, Johnson, Danielsens) – ABSOLUTE - Establishes county-based mitigation plan to allow businesses to operate during pandemic

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S-3505/A-5371 (Scutari, Weinberg/Mukherji, Johnson, Quijano) – ABSOLUTE - Requires assignment of unemployment claims handlers to legislative districts and partisan offices during COVID-19 pandemic state of emergency; appropriates \$1.8 million

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S-3868/A-5895 (Sarlo/Giblin) – ABSOLUTE - Concerns construction code enforcing agency fee revenue

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A-2722/S-1862 (Mukherji/Gopal, Oroho) – ABSOLUTE - Requires Commissioner of Corrections to institute 30-minute shift overlap in State correctional facilities

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A-4297/S-2631 (Houghtaling, Downey, Space/Gopal, Oroho) – ABSOLUTE - Permits conduct of bingos and raffles remotely; permits online sale of tickets for all bingos and raffles

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A-5231/S-3806 (Lopez, Coughlin, Freiman/Vitale) – ABSOLUTE - Allows county or municipal governing body to enter into revenue sharing agreement for alcoholic beverage sales by concessionaire permit holder

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