Sponsored by:
Senator STEPHEN M. SWEENEY
District 3 (Cumberland, Gloucester and Salem)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS
The “Water Quality Accountability Act”; imposes certain testing, reporting, management, and infrastructure investment requirements on water purveyors.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 12/20/2016)
AN ACT concerning the operation and management of public water systems, and supplementing Title 58 of the Revised Statutes.

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

1. This act shall be known and may be cited as the “Water Quality Accountability Act.”

2. As used in this act:
   “Board” means the Board of Public Utilities.
   “Department” means the Department of Environmental Protection.
   “Public water system” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. "Public water system” includes: (1) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system; and (2) any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system.
   “Water purveyor” means any person that owns a public water system.

3. a. Each water purveyor shall inspect each valve in its public water system in accordance with the provisions of subsection b. of this section in order to determine (1) accessibility of the valve for operational purposes, and (2) the valve's operating condition.
   b. Each water purveyor shall inspect each valve that is 12 or more inches in diameter at least once every two years, and shall inspect all other valves at least once every four years. At a minimum, each valve inspection conducted pursuant to this subsection shall include:
      (1) clearing of the area around the valve to ensure full access to the valve for operating purposes;
      (2) cleaning out of the valve box; and
      (3) dynamic testing of the valve, by opening and then closing the valve for either of the following number of turns:
         (a) the number of turns recommended by the valve manufacturer to constitute a credible test; or
         (b) the number of turns which constitutes 15 percent of the total number of turns necessary to completely open or completely close the valve.
   c. (1) Each water purveyor shall, once a year, test every fire hydrant in its system in order to determine the hydrant's working condition.
(2) Each water purveyor shall formulate and implement a plan for flushing every fire hydrant in the public water system, and every dead end of a main in the public water system. This plan for flushing may be combined with the periodic testing of fire hydrants required pursuant to paragraph (1) of this subsection.

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

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

4. a. Within 120 days after the effective date of this act, each water purveyor shall develop a cybersecurity program, in accordance with requirements established by the board, that defines and implements organization accountabilities and responsibilities for cyber risk management activities, and establishes policies, plans, processes, and procedures for identifying and mitigating cyber risk to its public water system. As part of the program, a water purveyor shall conduct risk assessments and implement appropriate controls to mitigate identified risks to the public water system, maintain situational awareness of cyber threats and vulnerabilities to the public water system, and create and exercise incident response and recovery plans.

A copy of the program developed pursuant to this subsection shall be provided to the New Jersey Cybersecurity and Communications Integration Cell, established pursuant to Executive Order No. 178 (2015) in the New Jersey Office of Homeland Security and Preparedness.

b. Within 60 days after developing the program required pursuant to subsection a. of this section, each water purveyor shall join the New Jersey Cybersecurity and Communications Integration Cell, established pursuant to Executive Order No. 178 (2015), and create a cybersecurity incident reporting process.

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

6. In addition to any other certifications required pursuant to law, rule, or regulation, 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, as applicable, shall be required to certify in writing each year to the Department of Environmental Protection and, if applicable, the Board of Public Utilities that the water purveyor complies with: all federal and State regulations, including water quality sampling, testing, and reporting requirements; the hydrant and valve requirements set forth in section 3 of this act; the notice of violation mitigation plan requirements set forth in section 5 of this act, if applicable; and the infrastructure improvement investment required pursuant to section 7 of this act.

7. a. Beginning no later than one year after the effective date of this act, every water purveyor shall implement an asset management plan designed to inspect, maintain, repair, and renew its infrastructure consistent with industry standard best practices. The asset management plan shall include: 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 of the asset condition and estimated service lives of the water mains serving the public water system; and a water supply and treatment program designed to inspect, maintain, repair, renew, and upgrade wells, intakes, pumps, and treatment facilities in accordance with all federal and State regulations, industry standards, and any mitigation plan required pursuant to section 5 of this act. Each water purveyor shall dedicate funds on an annual basis to address and remediate the highest priority projects as determined by its asset management plan.

All asset management plans and system condition reports shall be certified to by the licensed operator or professional engineer of the public water system and 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, as applicable. The replacement cycle shall be
determined by dividing the miles of water main located in the
public water system by 150 or other appropriate demonstration set
forth in the certified asset management plan prepared pursuant to
this section.

b. At least annually, each water purveyor shall provide to the
department and the board, if applicable, a report based on its asset
management plan prepared pursuant to subsection a. of this section
identifying the infrastructure improvements to be undertaken in the
coming year and the cost of those improvements, as well as
identifying the infrastructure improvements completed in the past
year and the cost of those improvements. A municipal water
department or municipal water authority shall also submit the report
required pursuant to this subsection to the Division of Local
Government Services in the Department of Community Affairs.

8. This act shall take effect immediately.

STATEMENT

This bill, to be known as the “Water Quality Accountability
Act,” is intended to enhance the reliability and safety of the State’s
drinking water. The bill would apply to all water purveyors.

The bill would establish specific standards for the testing of fire
hydrants. The standards are modeled on requirements currently
established in regulations by the Board of Public Utilities (BPU)
applicable to those water purveyors regulated by the BPU. Under
this bill, the requirements would apply to all water purveyors.

The bill, within 120 days after its enactment into law, would
require each water purveyor to develop a cybersecurity program, in
accordance with requirements established by the BPU, that defines
and implements organization accountabilities and responsibilities
for cyber risk management activities, and establishes policies,
plans, processes, and procedures for identifying and mitigating
cyber risk to the public water system. In March 2016, the BPU
adopted cybersecurity requirements applicable to the electric,
natural gas, water, and wastewater utilities that it regulates. This
bill would apply those requirements to all water purveyors. As part
of the program, a water purveyor would be required to conduct risk
assessments and implement appropriate controls to mitigate
identified risks to the public water system, maintain situational
awareness of cyber threats and vulnerabilities to the public water
system, and create and exercise incident response and recovery
plans. In addition, within 60 days after developing the required
program, each water purveyor would be required to join the New
Jersey Cybersecurity and Communications Integration Cell
(NJCCIC), established pursuant to Executive Order No. 178 (2015),
and create a cybersecurity incident reporting process. The NJCCIC serves as the State’s Information Sharing and Analysis Organization (ISAO), and serves governments, businesses, and citizens across New Jersey by promoting better awareness of cyber threats and the adoption of best practices. It is part of the Office of Homeland Security and Preparedness.

In addition to any other requirements in law, or rule or regulation adopted pursuant thereto, whenever a water purveyor is issued pursuant to the “Safe Drinking Water Act,” three notices of violation for any reason or two notices of violation related to an exceedance of a maximum contaminant level within any 12-month period, the bill would require the water purveyor, within 60 days after receipt of the third or second notice, as applicable, to submit to the Department of Environmental Protection (DEP) a mitigation plan specifying whether the notice of violation will be addressed through operational changes or require a capital expenditure and providing a schedule for implementation of the mitigation plan. The mitigation plan would include a report prepared by a licensed professional engineer that includes a technical analysis of the notices of violation and an explanation of how the mitigation plan is intended to prevent a recurrence of the issue that resulted in the notice of violation.

The bill would also require, as applicable, 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) to certify in writing each year that certain requirements set forth in the bill are met.

Lastly, this bill would require, beginning no later than one year after the bill is enacted into law, every water purveyor to implement an asset management plan designed to inspect, maintain, repair, and renew its infrastructure consistent with industry standard best practices, such as those used by the BPU and recommended by the American Water Works Association. The asset management plan would include: 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 of the asset condition and estimated service lives of the water mains serving the public water system; and a water supply and treatment program designed to inspect, maintain, repair, renew, and upgrade wells, intakes, pumps, and treatment facilities in accordance with all federal and State regulations, industry standards, and any mitigation plan that may be required pursuant to the bill. Each water purveyor would be required to dedicate funds on an annual basis to address and remediate the highest priority projects as determined by its asset management plan. The asset management plans and system condition reports would be certified to by the public water system’s licensed operator or professional engineer and 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), as applicable.
Each water purveyor would be required to annually submit a report
to the DEP and the BPU, if applicable, identifying the infrastructure
improvements to be undertaken in the coming year and the cost of
those improvements, as well as identifying the infrastructure
improvements completed in the past year and the cost of those
improvements. A municipal water department or municipal water
authority would also be required to submit this report to the
Division of Local Government Services in the Department of
Community Affairs.
This bill would establish a proactive policy concerning certain
testing, reporting, management, and infrastructure investment
requirements for water purveyors in order to enhance the reliability
and safety of the State’s drinking water systems.