

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES COMMITTEE

STATEMENT TO **ASSEMBLY, No. 4243**

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 20, 2018

The Assembly Telecommunications and Utilities Committee reports favorably and with committee amendments Assembly Bill No. 4243.

As amended and reported, this bill establishes the Mercer Regional Water Services Commission (commission). The purpose of the commission is to oversee rate-setting, service quality, and infrastructure operations of Trenton Water Works (TWW), as well as to receive information about and facilitate the resolution of problems arising from TWW and its operations.

The commission is to be comprised of 17 voting members: (1) a chairperson, appointed by the County Executive of Mercer County, upon the advice and consent of the Mercer County Board of Chosen Freeholders, and who meet certain qualifications specified in the bill; (2) the mayors of Ewing Township, Hamilton Township, Hopewell Township, Lawrence Township, and Trenton, or their designees; (3) one representative from the township (or city) council (or committee) the aforementioned municipalities, as selected by a majority vote of the council (or committee) members; (4) the Commissioner of Environmental Protection, or a designee; (5) the Commissioner of Community Affairs, or a designee; (6) the President of the Board of Public Utilities, or a designee; and (7) three public members, appointed by the County Executive of Mercer County, upon the advice and consent of the Mercer County Board of Chosen Freeholders, and who meet certain qualifications specified in the bill. Members of the commission are prohibited from being employed by TWW or the Trenton Department of Public Works.

Meetings may be called by the chairperson or by agreement of nine members of the commission, and may be held at any location in Mercer County. The first appointments to the commission, and the initial organization meeting, are required to be conducted no later than 45 days after the date the bill is enacted. The commission, however, is required to meet at least once every 90 days. Additional meetings may be convened as necessary. Meetings should be scheduled so as to afford maximum opportunity for public attendance and participation.

The commission is to be considered a “public body” and in all respects shall comply with the provisions of the “Senator Byron M. Baer Open Public Meetings Act” (OPMA). In addition to the requirements of the OPMA, adequate notice of commission meetings is required to be published in newspapers circulating in each of the aforementioned municipalities and may be posted on the municipalities’ website. Mercer County is to provide staffing for the commission.

The nine members of the commission constitute a quorum for the transaction of official business. Except as otherwise provided below, commission action may be taken and resolutions may be adopted upon the affirmative vote of nine commission members. Commission meetings are to be open to the public. However, by a supermajority vote of 12 members, the commission may conduct a part of a meeting in closed session if discussing one of the matters allowing for closed session as provided in the OPMA.

At the first organizational meeting, the commission is to select a vice chairperson, who shall serve as chair of the commission in the chairperson’s absence, and a secretary, from among the commission’s members. Every year, the commission is to select a new, or reappoints an existing, vice chairperson and a secretary from among the commission’s members.

The bill requires that an ordinance or resolution that adopted by the Trenton City Council and concerns TWW is required to be referred to the commission for ratification. The ordinance remains inoperative until receiving the review and approval of the commission. If the commission does not approve or disapprove the ordinance or resolution within 90 calendar days of transmittal by the Trenton City Council, the ordinance or resolution is deemed approved.

For any proposal concerning TWW, the approval of the commission is necessary to: (1) enter into a contract, to which TWW is a party, that is necessary and material to the operation of TWW, that concern amounts greater than \$10,000; (2) fix and collect rates, fees, rents, and other charges; and (3) hire, suspend, or terminate the employment of managerial or executive personnel of TWW, though this type of action may be taken without commission approval on an interim basis for a period of up to 90 days.

The commission may hold hearings, take testimony, and refer matters to the appropriate State department or agency, on any public or internal complaint regarding TWW and: (1) water and service quality; (2) infrastructure and reliability; (3) rates and fees, if the amount in dispute is greater than \$1,000; and 4) issues related to improper or illegal actions by an employee of TWW, including concerns over appropriate staffing and training.

The commission is required to monitor TWW’s: (1) compliance with the “Water Quality Accountability Act” and the “Safe Drinking Water Act,” including notifying the Department of Environmental Protection of concerns regarding violations; (2) adherence to an

adequate emergency response plan, including providing timely notification to customers served by TWW of water quality and service problems; (3) progress reports required to be prepared by TWW, pursuant to law, regulation, court or administrative order, or consent agreement; (4) hiring, staffing, and training of personnel; and (5) proper payment of fines and penalties. However, by a supermajority vote of twelve members, the commission may waive or deem approved any of the aforementioned oversight responsibilities, for a period of up to 365 days. Thereafter, by a supermajority vote of twelve members, the commission may continue to waive or deem approved those responsibilities.

The bill requires that no later than the first day of the 60th month (approximately five years) after enactment of the bill, the commission is required to prepare and file a status report with the Governor and Legislature. The report is to analyze, with emphasis on the prior five years: (1) the state of water quality, service quality, rate-setting, and infrastructure; information concerning any adopted asset management program and emergency response plan; (2) adequate staffing and training for personnel; any federal, State, or local violations or citations received in the prior five years, and the measures taken to remediate the issues; the efficacy of the commission as an oversight body, and recommendations to broaden or limit the scope of the commission's responsibilities; and (3) any other relevant information concerning TWW deemed appropriate by the commission. The report is to be adopted by the affirmative votes of nine members of the commission.

Upon receipt and review of the report, the Legislature may adopt a joint resolution that dissolves the commission, ending its existence as a body and terminating its oversight responsibilities. However, if the Legislature does not adopt, or the Governor does not approve, a joint resolution that dissolves the commission, then the commission is required to continue to prepare and file reports with the Legislature and the Governor biannually until it is dissolved.

COMMITTEE AMENDMENTS:

The committee amended the bill to: (1) provide that the commission is to be considered a "public body" and in all respects comply with the provisions of the OPMA; (2) allow for part of a commission meeting to be held in closed session concerning any matter allowed for under the OPMA; and (3) make corrections to provide for consistency of terms used in the OPMA and the bill.