

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.).