

ASSEMBLY, No. 2565

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes Mercer Regional Water Services Commission as oversight body over certain Trenton Water Works operations.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing the Mercer Regional Water Services
2 Commission and supplementing Title 40A of the New Jersey
3 Statutes.

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

7
8 1. The Legislature finds and declares that:

9 a. Trenton Water Works is a public utility that is responsible
10 for providing a safe, clean, and adequate water supply to certain
11 residents and businesses located in Ewing Township, Hamilton
12 Township, Hopewell Township, Lawrence Township, and the City
13 of Trenton in Mercer County.

14 b. Although five municipalities and approximately a quarter
15 millions individuals are serviced by Trenton Water Works, the
16 public utility is owned, operated, and controlled by one municipal
17 government.

18 c. The New Jersey Department of Environmental Protection
19 has, on multiple occasions, cited Trenton Water Works for
20 numerous violations related to technical, operational, and
21 managerial deficiencies.

22 d. Despite administrative consent orders mandating that
23 Trenton Water Works take corrective action related to systems
24 operations, emergency response plans, adequate staffing, and
25 mandated progress reports, violations and complaints related to
26 water and service quality issues have persisted.

27 e. The continuing problems and inadequate oversight of
28 Trenton Water Works has become a public health concern that
29 necessitates legislative action to ensure the welfare of the customers
30 of Trenton Water Works and the citizens of this State.

31

32 2. a. There is established a Mercer Regional Water Services
33 Commission. The purpose of the commission is to oversee rate-
34 setting, service quality, and infrastructure operations of Trenton Water
35 Works, and to facilitate efficient and effective remediation of problems
36 arising therefrom.

37 b. The commission shall consist of 13 members as follows:

38 (1) The Mayor of Ewing Township, ex officio, or the mayor's
39 designee , serving as a voting member;

40 (2) a member of the Ewing Township Council, selected by a
41 majority vote of a quorum of the council members , serving as a voting
42 member;

43 (3) the Mayor of Hamilton Township, ex officio, or the mayor's
44 designee, serving as a voting member;

45 (4) a member of the Hamilton Township Council, selected by a
46 majority vote of a quorum of the council members , serving as a voting
47 member;

- 1 (5) the Mayor of Hopewell Township, ex officio, or the mayor's
2 designee, serving as a voting member;
- 3 (6) a member of the Hopewell Township Committee, selected by a
4 majority vote of a quorum of the committee members, serving as a
5 voting member;
- 6 (7) the Mayor of Lawrence Township, ex officio, or the mayor's
7 designee, serving as a voting member;
- 8 (8) a member of the Lawrence Township Council, selected by a
9 majority vote of a quorum of the council members, serving as a voting
10 member;
- 11 (9) the Mayor of the City of Trenton, ex officio, or the mayor's
12 designee, serving as a voting member;
- 13 (10) a member of the Trenton City Council, selected by a majority
14 vote of a quorum of the council members, serving as a voting member;
- 15 (11) the Commissioner of Environmental Protection, ex officio, or
16 the commissioner's designee, serving as a non-voting member ;
- 17 (12) the Commissioner of Community Affairs, ex officio, or the
18 commissioner's designee; serving as a non-voting member; and
- 19 (13) the President of the Board of Public Utilities, ex officio, or the
20 president's designee, serving as a non-voting member.
- 21 c. All appointments to the commission shall be made no later than
22 45 days following the date of enactment of
23 P.L. , c. (C.) (pending before the Legislature as this bill). The
24 commission shall organize as soon as practicable, but no later than 45
25 days following the date of enactment of P.L. , c. (C.) (pending
26 before the Legislature as this bill). At the initial organizational
27 meeting, the commission shall select by vote of six voting members a
28 chairperson, a vice chairperson, who shall serve as chairperson of the
29 commission in the chairperson's absence, and a secretary, from among
30 the commission's members. Annually thereafter, the commission shall
31 select by a vote of six voting members a chairperson, a vice
32 chairperson, and a secretary from among the commission's members.
- 33 d. If a commission member, who is appointed pursuant to
34 paragraph (2), (4), (6), (8), or (10) of subsection b. of this section,
35 vacates his or her position on that municipal body, then that member's
36 replacement on the commission shall be selected as follows: the
37 members of that municipal body shall select from its members a
38 replacement, by majority vote of a quorum and within 30 days of
39 official vacancy.
- 40 e. (1) The commission shall meet at the call of the chairperson or
41 upon agreement of six voting members of the commission. Meetings
42 shall be held no less than once every 90 days, and additional meetings
43 shall be convened as necessary for the commission to discharge its
44 duties, at any location in Mercer County. The meetings shall be held
45 at such times deemed appropriate for the commission to fulfill its
46 charge, with due consideration for the opportunity to maximize public
47 attendance and participation.

1 (2) The commission shall be considered a “public body” and in all
2 respects shall comply with the provisions of the “Senator Byron M.
3 Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.).
4 In addition to the requirements of section 4 of P.L.1975, c.231
5 (C.10:4-9), adequate notice, as defined in section 3 of P.L.1975 c.231
6 (C.10:4-8), shall also be given by publication in the official
7 newspaper, if there is one, or in a newspaper of general circulation, for
8 Ewing Township, Hamilton Township, Hopewell Township, Lawrence
9 Township, and the City of Trenton. A municipality may also publish
10 notice on the municipality’s internet website.

11 f. Six voting members of the commission shall constitute a
12 quorum for the transaction of official business. Action may be taken
13 and resolutions adopted by the commission at a meeting by the
14 affirmative vote of six voting members of the commission.

15 g. Mercer County shall, upon request of the commission, provide
16 legal, stenographic, technical, clerical, and other staff and resource
17 assistance to the commission.

18 h. Commission meetings shall be open to the public as provided
19 in the “Senator Byron M. Baer Open Public Meetings Act,” P.L.1975,
20 c.231 (C.10:4-6 et seq.); provided, however, that, by affirmative vote
21 of nine voting members, the commission may conduct a part of a
22 meeting in closed session if the agenda item concerns a matter
23 provided in subsection b. of section 7 of P.L.1975, c.231 (C.10:4-12).

24 i. A member of the commission shall not be an employee of
25 Trenton Water Works or the Department of Public Works of the City
26 of Trenton. In the case of an individual who, pursuant to this section,
27 is designated as an ex officio member of the commission but is
28 employed by Trenton Water Works or the Department of Public
29 Works of the City of Trenton, then a replacement shall be appointed in
30 the place of that member pursuant to this section.

31

32 3. a. Notwithstanding any provision of law to the contrary, upon
33 the adoption of a resolution or ordinance by the Trenton City Council
34 that concerns Trenton Water Works, the Trenton City Council shall
35 promptly transmit a copy of the resolution or ordinance to the
36 members of the Mercer Regional Water Services Commission. Unless
37 otherwise provided by P.L. , c. (C.) (pending before the
38 Legislature as this bill), the ordinance or resolution shall not take
39 effect without first receiving the review and approval of the
40 commission. If the commission does not issue an approval or
41 disapproval within 90 calendar days of transmittal by the Trenton City
42 Council, the ordinance or resolution shall be deemed approved.

43 b. Notwithstanding any provision of law to the contrary, approval
44 of the commission shall be required for any proposal concerning
45 Trenton Water Works to:

46 (1) enter into, renew, or amend a contract, which directly concerns
47 Trenton Water Works, that is necessary and material to the operation

1 of Trenton Water Works, and which concerns consideration or value
2 greater than \$10,000;

3 (2) fix and collect rates, fees, rents, and other charges, pursuant to
4 “County and Municipal Water Supply Act,” N.J.S.40A:31-1 et seq.;
5 and

6 (3) hire, suspend, or terminate the employment of managerial or
7 executive personnel of Trenton Water Works; provided, however, that
8 such action may be taken without commission approval on an interim
9 basis for a period of up to 90 days, pending the convening of the
10 commission.

11 c. Notwithstanding any provision of law to the contrary, the
12 commission shall, at its discretion, hold hearings, take testimony, and
13 refer matters to the appropriate State department or agency on any
14 public or internal complaint regarding Trenton Water Works
15 involving:

16 (1) water and service quality;

17 (2) infrastructure and reliability;

18 (3) rates and fees, if the amount in dispute is greater than \$1,000;
19 and

20 (4) misfeasance, malfeasance, or nonfeasance, of an employee of
21 Trenton Water Works, or other material issues related to appropriate
22 staffing and training; provided, however, that nothing in this section
23 shall preclude or limit any other civil or criminal action or remedy
24 available by law.

25 d. Notwithstanding any provision of law to the contrary, the
26 commission shall, with regard to Trenton Water Works, monitor:

27 (1) compliance with the “Water Quality Accountability Act,”
28 P.L.2017, c.133 (C.58:31-1 et seq.) and the “Safe Drinking Water
29 Act,” P.L.1977, c.224 (C.58:12A-1 et seq.), and notify the Department
30 of Environmental Protection of concerns regarding violations thereof;

31 (2) adherence to an adequate emergency response plan, including
32 but not limited to, providing timely notification to customers served by
33 Trenton Water Works of water quality and service problems;

34 (3) progress reports required to be prepared by Trenton Water
35 Works, pursuant to law, regulation, court or administrative order, or
36 consent agreement;

37 (4) hiring, adequate staffing, and proper training of personnel; and

38 (5) proper payment of fines and penalties.

39 e. By affirmative vote of nine voting members, the commission
40 may waive or deem approved any provision of oversight responsibility
41 mandated by this section, for a period of up to 365 days. By
42 affirmative vote of nine voting members, the commission may
43 continue to waive or deem approved any provision of oversight
44 responsibility mandated by this section for separate periods of up to
45 365 days.

46 f. For purposes of this section, “local unit” and “water supply
47 facilities” shall have the same meanings as those terms are defined in
48 N.J.S.40A:31-3.

33
34 5. This act shall take effect immediately.

38
39 This bill establishes the Mercer Regional Water Services
40 Commission (commission). The purpose of the commission is to
41 oversee rate-setting, service quality, and infrastructure operations of
42 Trenton Water Works (TWW), as well as to receive information
43 about and facilitate the resolution of problems arising from TWW
44 and its operations.

45 The commission is to be comprised of 13 voting members in the
46 following categories: (1) the mayors of Ewing Township, Hamilton
47 Township, Hopewell Township, Lawrence Township, and the City

1 of Trenton, or their designees; (2) one representative from the
2 municipal governing bodies of the aforementioned municipalities,
3 as selected by a majority vote of the council (or committee)
4 members; (3) the Commissioner of Environmental Protection, or a
5 designee; (4) the Commissioner of Community Affairs, or a
6 designee; and (5) the President of the Board of Public Utilities, or a
7 designee. Members of the commission are prohibited from being
8 employed by TWW or the Trenton Department of Public Works.

9 Meetings may be called by the chairperson or by agreement of
10 six members of the commission, and may be held at any location in
11 Mercer County. The first appointments to the commission, and the
12 initial organization meeting, are required to be conducted no later
13 than 45 days after the date the bill is enacted. The commission is
14 required to meet at least once every 90 days. Additional meetings
15 may be convened as necessary. Meetings should be scheduled so as
16 to afford maximum opportunity for public attendance and
17 participation. The commission is to be considered a “public body”
18 and in all respects shall comply with the provisions of the “Senator
19 Byron M. Baer Open Public Meetings Act” (OPMA). In addition to
20 the requirements of the OPMA, adequate notice of commission
21 meetings is required to be published in newspapers circulating in
22 each of the aforementioned municipalities and may be posted on the
23 municipalities’ website. Mercer County is to provide staffing for
24 the commission.

25 Six members of the commission would constitute a quorum for
26 the transaction of official business. Except as otherwise provided in
27 the bill, commission action may be taken and resolutions may be
28 adopted upon the affirmative vote of six commission members.
29 Commission meetings are to be open to the public. However, by a
30 supermajority vote of nine members, the commission may conduct a
31 part of a meeting in closed session if discussing one of the matters
32 allowing for closed session as provided in the OPMA.

33 At the first organizational meeting, the commission is to select a
34 chairperson, a vice chairperson, who shall serve as chair of the
35 commission in the chairperson’s absence, and a secretary, from
36 among the commission’s members. Every year, the commission is
37 to select a new, or reappoint an existing, chairperson, vice
38 chairperson, and a secretary from among the commission’s
39 members.

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

47 For any proposal concerning TWW, the approval of the
48 commission is necessary to: (1) enter into a contract, to which

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

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

14 The commission is required to monitor TWW's: (1) compliance
15 with the "Water Quality Accountability Act" and the "Safe
16 Drinking Water Act," including notifying the Department of
17 Environmental Protection of concerns regarding violations; (2)
18 adherence to an adequate emergency response plan, including
19 providing timely notification to customers served by TWW of water
20 quality and service problems; (3) progress reports required to be
21 prepared by TWW, pursuant to law, regulation, court or
22 administrative order, or consent agreement; (4) hiring, staffing, and
23 training of personnel; and (5) proper payment of fines and penalties.
24 However, by a supermajority vote of nine members, the commission
25 may waive or deem approved any of the aforementioned oversight
26 responsibilities, for a period of up to 365 days. Thereafter, by a
27 supermajority vote of nine members, the commission may continue
28 to waive or deem approved those responsibilities.

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

44 Upon receipt and review of the report, the Legislature may adopt
45 a joint resolution that dissolves the commission, ending its
46 existence as a body and terminating its oversight responsibilities.
47 However, if the Legislature does not adopt, or the Governor does

1 not approve, a joint resolution that dissolves the commission, then
2 the commission is required to continue to prepare and file reports
3 with the Legislature and the Governor biannually until it is
4 dissolved.