ASSEMBLY, No. 4303

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)

SYNOPSIS

"Smart Planning Wireless and Water Public Utility Facilities Act"; incentivizes placement of wireless communications equipment on water public utility towers.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning certain water public utility towers and wireless communications equipment, supplementing Title 48 of the Revised Statutes, and amending R.S.48:19-18.

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

1. (New section) This act shall be known and may be cited as the "Smart Planning Wireless and Water Public Utility Facilities Act."

2. (New section) The Legislature finds and declares that:

a. It is necessary to ensure that the people of New Jersey are able to benefit from new and advanced wireless communications technologies and services as soon as possible by ensuring that wireless communications service providers have non-discriminatory access to available space on water towers owned by New Jersey water public utilities; and

b. Legislation to promote the placement of wireless communications equipment on water towers, by permitting a sharing of revenues between the water public utility's ratepayers and the water public utility's investors, would provide a benefit to these ratepayers and investors.

3. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services.

"Wireless communications service provider" means any provider of wireless communications services.

"Wireless communications services" means the offering of any wireless communications service authorized by the Federal Communications Commission.

"Water tower" means a tower, tank, or standpipe serving as a reservoir to deliver water sufficient to maintain a desired pressure.

"Water public utility" means any investor-owned water company regulated by the Board of Public Utilities pursuant to R.S.48:2-13 and organized under the laws of this State for the purpose of transporting and providing water to an end user within this State.

4. (New section) a. A water public utility shall provide a wireless communications service provider with non-discriminatory access to any water tower owned or controlled by the water public utility for the installation of wireless communications equipment.

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 <u>thus</u> is new matter.

b. Notwithstanding the provisions of subsection a. of this section, and consistent with federal law, a water public utility may deny a wireless communications service provider access to its water tower, on a non-discriminatory basis, where there is insufficient space and for reasons of safety and structural integrity of the water tower based on generally accepted engineering principles.

5. R.S.48:19-18 is amended to read as follows:

48:19-18. Each water company organized under the laws of this State may sell and dispose of the water issuing from its reservoirs, aqueducts or pipes for such rates and pursuant to such terms and conditions as are in accordance with its approved tariffs on file with the Board of Public Utilities, provided, however, as follows:

No tariff shall be approved that provides for or allows the imposition of any standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter. No tariff shall be approved that provides for or allows the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing herein shall preclude any water company from charging for the actual cost of water main connection.

Nothing in this section shall preclude a water company from requiring separate dedicated service lines for fire protection. The water company may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

Notwithstanding the provisions of this section, in approving the tariff of a water company that is a water public utility as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall consider as above-the-line income an amount equal to fifty percent of any rental income received by a water company for the leasing of space on a water tower to a wireless communications service provider, pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill). The remainder of that rental income shall be considered below-the-line income.

6. This act shall take effect immediately.

STATEMENT

This bill allows a water public utility, as that term is defined in the bill, to provide a wireless communications service provider with non-discriminatory access to any water tower owned or controlled by the water public utility for the installation of wireless communications equipment. Consistent with federal law, a water public utility may deny a wireless communications service provider access to its water tower, on a non-discriminatory basis, where there is insufficient space and for reasons of safety and structural integrity of the water tower based on generally accepted engineering principles.

The bill provides that, in approving a water public utility's tariff, the Board of Public Utilities (BPU) is to consider fifty percent of any rental income received by the water public utility for the leasing of space on its water tower to a wireless communications service provider as "above the line income." The BPU is to consider the remainder of that rental income as "below the line income."