

SENATE, No. 652

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN

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

Introduced Pending Technical Review by Legislative Counsel.



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 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
35 Water Works, and to facilitate efficient and effective remediation of
36 problems arising therefrom.

37 b. The commission shall consist of 17 voting members as
38 follows:

39 (1) a member appointed by the County Executive of Mercer
40 County, upon the advice and consent of the Mercer County Board
41 of Chosen Freeholders as expressed by the affirmative votes of a
42 majority of a quorum of members thereof, who shall serve as
43 chairperson of the commission; provided, however, that this
44 member shall:

45 (a) not be a currently-serving elected official of any municipal,
46 county, or State governmental body;

47 (b) not be an employee of Trenton Water Works;

- 1 (c) not be an employee of any county or municipal government
- 2 serviced by Trenton Water Works;
- 3 (d) have professional experience in engineering, public water or
- 4 utility systems, or local, county, or state government services; and
- 5 (e) be a resident of Ewing Township, Hamilton Township,
- 6 Hopewell Township, Lawrence Township, or the City of Trenton.
- 7 (2) the Mayor of Ewing Township, ex officio, or the mayor's
- 8 designee;
- 9 (3) a member of the Ewing Township Council, selected by a
- 10 majority vote of a quorum of the council members;
- 11 (4) the Mayor of Hamilton Township, ex officio, or the mayor's
- 12 designee;
- 13 (5) a member of the Hamilton Township Council, selected by a
- 14 majority vote of a quorum of the council members;
- 15 (6) the Mayor of Hopewell Township, ex officio, or the mayor's
- 16 designee;
- 17 (7) a member of the Hopewell Township Committee, selected by
- 18 a majority vote of a quorum of the committee members;
- 19 (8) the Mayor of Lawrence Township, ex officio, or the mayor's
- 20 designee;
- 21 (9) a member of the Lawrence Township Council, selected by a
- 22 majority vote of a quorum of the council members;
- 23 (10) the Mayor of the City of Trenton, ex officio, or the mayor's
- 24 designee;
- 25 (11) a member of the Trenton City Council, selected by a
- 26 majority vote of a quorum of the council members;
- 27 (12) the Commissioner of Environmental Protection, ex officio,
- 28 or the commissioner's designee;
- 29 (13) the Commissioner of Community Affairs, ex officio, or the
- 30 commissioner's designee;
- 31 (14) the President of the Board of Public Utilities, ex officio, or
- 32 the president's designee; and
- 33 (15) three public members, appointed by the County Executive
- 34 of Mercer County, upon the advice and consent of the Mercer
- 35 County Board of Chosen Freeholders as expressed by the
- 36 affirmative votes of a majority of a quorum thereof; provided,
- 37 however, that each public member shall:
- 38 (a) not be a currently-serving elected official of any municipal,
- 39 county, or State governmental body;
- 40 (b) not be an employee of Trenton Water Works;
- 41 (c) not be an employee of any county or municipal government
- 42 serviced by Trenton Water Works;
- 43 (d) have professional experience in engineering, public water or
- 44 utility systems, or local, county, or state government services; and
- 45 (e) be a resident of Ewing Township, Hamilton Township,
- 46 Hopewell Township, Lawrence Township, or the City of Trenton.
- 47 c. All appointments to the commission shall be made no later
- 48 than 45 days following the date of enactment of P.L. ,

1 c. (C.) (pending before the Legislature as this bill). The
2 commission shall organize as soon as practicable, but no later than
3 45 days following the date of enactment of P.L. , c. (C.)
4 (pending before the Legislature as this bill). At the initial
5 organizational meeting, the commission shall select by vote of nine
6 members a vice chairperson, who shall serve as chair of the
7 commission in the chairperson's absence, and a secretary, from
8 among the commission's members. Annually thereafter, the
9 commission shall select by a vote of nine members a vice
10 chairperson and a secretary from among the commission's
11 members.

12 d. If a commission member, who is appointed pursuant to
13 paragraph (3), (5), (7), (9), or (11) of subsection b. of this section,
14 vacates his or her position on that municipal body, then that
15 member's replacement on the commission shall be selected as
16 follows: the members of that municipal body shall select from its
17 members a replacement, by majority vote of a quorum and within
18 30 days of official vacancy.

19 e. The commission shall meet at the call of the chairperson or
20 upon agreement of nine members of the commission. Meetings
21 shall be held no less than once every 90 days, and additional
22 meetings shall be convened as necessary for the commission to
23 discharge its duties, at any location in Mercer County. The
24 meetings shall be held at such times deemed appropriate for the
25 commission to fulfill its charge, with due consideration for the
26 opportunity to maximize public attendance and participation.

27 Public notice shall be given by publication in the official
28 newspaper, if there be one, or in a newspaper of general circulation,
29 for Ewing Township, Hamilton Township, Hopewell Township,
30 Lawrence Township, and the City of Trenton, at least five days
31 prior to the date of the meeting. A municipality may also publish
32 notice on the municipality's internet website. "Public notice"
33 includes, but is not limited to, the date, time, and location of the
34 meeting.

35 f. Nine members of the commission shall constitute a quorum
36 for the transaction of official business. Action may be taken and
37 resolutions adopted by the commission at a meeting by the
38 affirmative vote of nine members of the commission.

39 g. Mercer County shall, upon request of the commission,
40 provide legal, stenographic, technical, clerical, and other staff and
41 resource assistance to the commission.

42 h. Commission meetings shall be open to the public; provided,
43 however, that, by affirmative vote of twelve members, the
44 commission may conduct a part of a meeting in closed session if the
45 agenda item concerns a personnel matter.

46 i. A member of the commission shall not be an employee of
47 Trenton Water Works or the Department of Public Works of the
48 City of Trenton. In the case of an individual who, pursuant to this

1 section, is designated as an ex officio member of the commission
2 but is employed by Trenton Water Works or the Department of
3 Public Works of the City of Trenton, then a replacement shall be
4 appointed in the place of that member pursuant to this section.

5
6 3. a. Notwithstanding any provision of law to the contrary,
7 upon the adoption of a resolution or ordinance by the Trenton City
8 Council that concerns Trenton Water Works, the Trenton City
9 Council shall promptly transmit a copy of the resolution or
10 ordinance to the members of the Mercer Regional Water Services
11 Commission. Unless otherwise provided by P.L. , c. (C.)
12 (pending before the Legislature as this bill), the ordinance or
13 resolution shall not take effect without first receiving the review
14 and approval of the commission. If the commission does not issue
15 an approval or disapproval within 90 calendar days of transmittal by
16 the Trenton City Council, the ordinance or resolution shall be
17 deemed approved.

18 b. Notwithstanding any provision of law to the contrary,
19 approval of the commission shall be required for any proposal
20 concerning Trenton Water Works to:

21 (1) enter into, renew, or amend a contract, which directly
22 concerns Trenton Water Works, that is necessary and material to the
23 operation of Trenton Water Works, and which concerns
24 consideration or value greater than \$10,000;

25 (2) fix and collect rates, fees, rents, and other charges, pursuant
26 to "County and Municipal Water Supply Act," N.J.S.40A:31-1 et
27 seq.; and

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

33 c. Notwithstanding any provision of law to the contrary, the
34 commission shall, at its discretion, hold hearings, take testimony,
35 and refer matters to the appropriate State department or agency on
36 any public or internal complaint regarding Trenton Water Works
37 involving:

38 (1) water and service quality;

39 (2) infrastructure and reliability;

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

41 and

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

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

- 1 (1) compliance with the “Water Quality Accountability Act,”
2 P.L.2017, c.133 (C.58:31-1 et seq.) and the "Safe Drinking Water
3 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), and notify the
4 Department of Environmental Protection of concerns regarding
5 violations thereof;
- 6 (2) adherence to an adequate emergency response plan, including
7 but not limited to, providing timely notification to customers served
8 by Trenton Water Works of water quality and service problems;
- 9 (3) progress reports required to be prepared by Trenton Water
10 Works, pursuant to law, regulation, court or administrative order, or
11 consent agreement;
- 12 (4) hiring, adequate staffing, and proper training of personnel;
13 and
- 14 (5) proper payment of fines and penalties.
- 15 e. By affirmative vote of twelve members, the committee may
16 waive or deem approved any provision of oversight responsibility
17 mandated by this section, for a period of up to 365 days. By
18 affirmative vote of twelve members, the committee may continue to
19 waive or deem approved any provision of oversight responsibility
20 mandated by this section for separate periods of up to 365 days.
- 21 f. For purposes of this section, “local unit” and “water supply
22 facilities” shall have the same meanings as those terms are defined
23 in N.J.S.40A:31-3.
24
- 25 4. a. On or before the first day of the 60th month next
26 following the date of enactment of this act, the Mercer Regional
27 Water Services Commission shall prepare and file with the
28 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
29 19.1), with the Legislature, a status report concerning Trenton
30 Water Works. The report shall analyze, with particular emphasis on
31 improvements and problems during the prior 60 months: the state of
32 water quality, service quality, rate-setting, and infrastructure;
33 information concerning any adopted asset management program and
34 emergency response plan; adequate staffing and training for
35 personnel; any federal, State, or local violations or citations
36 received in the prior 60 months, and the measures taken to
37 remediate the issues; the efficacy of the Mercer Regional Water
38 Services Commission as an oversight body, and recommendations
39 to broaden or limit the scope of the commission’s responsibilities;
40 and any other relevant information concerning Trenton Water
41 Works deemed appropriate by the commission. The report shall be
42 adopted by the affirmative votes of nine members of the
43 commission.
- 44 b. Upon receipt of the report, the Legislature may adopt a joint
45 resolution that dissolves the commission. If a joint resolution
46 dissolving the commission is adopted by the Legislature and
47 approved by the Governor, the commission shall be dissolved and
48 its responsibilities pursuant to this act shall end; provided, however,

1 that the commission may take administrative action as may be
2 necessary to complete the work of the commission.

3 c. If the Legislature does not adopt, or the Governor does not
4 approve, a joint resolution that dissolves the commission, then the
5 commission shall continue to prepare and file reports with the
6 Legislature and the Governor on a bi-annual basis, pursuant to this
7 section.

8

9 5. This act shall take effect immediately.

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11

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STATEMENT

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14 This bill establishes the Mercer Regional Water Services
15 Commission (the “commission”). The purpose of the commission
16 is to oversee rate-setting, service quality, and infrastructure
17 operations of Trenton Water Works, as well as to receive
18 information about and facilitate the resolution of problems arising
19 from the facility and its operations.

20

Composition and Administration

21

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23 The commission is comprised of 17 voting members: (1) a
24 chairperson, appointed by the County Executive of Mercer County,
25 upon the advice and consent of the Mercer County Board of Chosen
26 Freeholders, and who is not a currently-serving elected official, not
27 a Trenton Water Works employee, not an employee of a county or
28 municipality serviced by Trenton Water Works, has professional
29 experience in engineering, public water or utility systems, or local,
30 county, or state government services, and is a resident of a
31 municipality serviced by Trenton Water Works; (2) the mayors of
32 Ewing Township, Hamilton Township, Hopewell Township,
33 Lawrence Township, and Trenton, or their designees; (3) one
34 representative from the township (or city) council (or committee)
35 the aforementioned municipalities, as selected by a majority vote of
36 the council (or committee) members; (4) the Commissioner of
37 Environmental Protection, or a designee; (5) the Commissioner of
38 Community Affairs, or a designee; (6) the President of the Board of
39 Public Utilities, or a designee; and (7) three public members,
40 appointed by the County Executive of Mercer County, upon the
41 advice and consent of the Mercer County Board of Chosen
42 Freeholders, and who are not currently-serving elected officials, not
43 Trenton Water Works employees, not employees of a municipality
44 serviced by Trenton Water Works, have professional experience in
45 engineering, public water or utility systems, or local, county, or
46 state government services, and are residents of a municipality
47 serviced by Trenton Water Works. Members of the commission are

1 prohibited from being employed by Trenton Water Works or the
2 Trenton Department of Public Works.

3 Meetings may be called by the chairperson or by agreement of
4 nine members of the commission, and may be held at any location
5 in Mercer County. The first appointments to the commission, and
6 the initial organization meeting, are required to be conducted no
7 later than 45 days after the date the bill is enacted. The
8 commission, however, is required to meet at least once every 90
9 days. Additional meetings may be convened as necessary.
10 Meetings should be scheduled so as to afford maximum opportunity
11 for public attendance and participation. Notice of the meetings is
12 required to be published in newspapers circulating in each of the
13 aforementioned municipalities and may be posted on the
14 municipalities' website. Mercer County is to provide staffing for
15 the committee.

16 The presence of nine members of the commission constitutes a
17 quorum for the transaction of official business. Except as otherwise
18 provided below, committee action may be taken and resolutions
19 may be adopted upon the affirmative vote of nine commission
20 members. Committee meetings are open to the public. However, by
21 a supermajority vote of 12 members, the commission may conduct a
22 part of a meeting in closed session if the matter discussed concerns
23 a personnel issue.

24 At the first organizational meeting, the commission selects a vice
25 chairperson, who shall serve as chair of the commission in the
26 chairperson's absence, and a secretary, from among the
27 commission's members. Every year, the commission selects a new,
28 or reappoints an existing, vice chairperson and a secretary from
29 among the commission's members.

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31 *Oversight Responsibilities*

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33 Any ordinance or resolution that is adopted by the Trenton City
34 Council and concerns Trenton Water Works is required to be
35 referred to the Mercer Regional Water Services Commission for
36 ratification. The ordinance remains inoperative until receiving the
37 review and approval of the commission. If the commission does not
38 approve or disapprove the ordinance or resolution within 90
39 calendar days of transmittal by the Trenton City Council, the
40 ordinance or resolution is deemed approved.

41 Moreover, for any proposal concerning Trenton Water Works,
42 the approval of the commission is necessary to: (1) enter into a
43 contract, to which Trenton Water Works is a party, that is necessary
44 and material to the operation of Trenton Water Works, that concern
45 amounts greater than \$10,000; (2) fix and collect rates, fees, rents,
46 and other charges; and (4) hire, suspend, or terminate the
47 employment of managerial or executive personnel of Trenton Water

1 Works, though this type of action may be taken without commission
2 approval on an interim basis for a period of up to 90 days.

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

11 Finally, the commission is required to monitor Trenton Water
12 Works's: (1) compliance with the "Water Quality Accountability
13 Act" and the "Safe Drinking Water Act," including notifying the
14 Department of Environmental Protection of concerns regarding
15 violations; (2) adherence to an adequate emergency response plan,
16 including providing timely notification to customers served by
17 Trenton Water Works of water quality and service problems;
18 (3) progress reports required to be prepared by Trenton Water
19 Works, pursuant to law, regulation, court or administrative order, or
20 consent agreement; (4) hiring, staffing, and training of personnel;
21 and (5) proper payment of fines and penalties.

22 However, by a supermajority vote of twelve members, the
23 committee may waive or deem approved any of the aforementioned
24 oversight responsibilities, for a period of up to 365 days.
25 Thereafter, by a supermajority vote of twelve members, the
26 committee may continue to waive or deem approved the same.

27

28 *Report and Dissolution*

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

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

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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.