SENATE, No. 4018

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 30, 2021

Sponsored by:
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Establishes “Household Water Assistance Program”; appropriates $75 million.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 12/16/2021)

AN ACT providing water assistance, sewer assistance, and stormwater utility assistance to low-income households and supplementing Title 52 of the Revised Statutes and making an appropriation.

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

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

"Affordable" means, with respect to a household's costs for water services that the household is able to pay for water services that are adequate to meet the household's basic needs while maintaining the ability to pay for other essential costs.

"Arrears" means debt owed by a customer of a water system for unpaid water service bills.

"Assistance" means financial and other assistance provided to or on behalf of an eligible household to reduce the household's costs of water service.

"Board" means the New Jersey Board of Public Utilities.

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Eligible household" means a household, regardless of federal immigration status of the members of the household that:

(1) has an adjusted gross income at or below an amount to be determined by the department, which shall be equal to or greater than 200 percent of the federal poverty guidelines;

(2) includes one or more individuals residing in the eligible household who receive or are eligible to receive the following:

(a) benefits under part A of title IV of the Social Security Act, 42 U.S.C. s.601 et seq.;

(b) supplemental security income payments under title XVI of the Social Security Act, 42 U.S.C. s.1381 et seq.;

(c) food stamps under the "Food Stamps Act of 1997," 7 U.S.C. s.2011 et seq.;

(d) payments under section 415, 521, 541, or 542 of the title 38, United States Code, or under section 306 of the "Veterans' and Survivors' Pension Improvement Act of 1978," Pub.L. 95-588;

(e) payments under the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq.;

(f) benefits under the "Universal Service Fund" established pursuant to P.L.1999, c.23 (C.48:3-60);

(g) benefits under the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.);

(h) benefits under the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.31 et seq.);

(i) protections under the "Winter Termination Program" established pursuant to N.J.A.C.14:3-3A.5;

(j) benefits under the "Pharmaceutical Assistance to the Aged and Disabled Program", established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.); or

(k) benefits as defined pursuant to section 1 of P.L.1997, c.14 (C.44:10-44); or

(3) is experiencing temporary financial hardship as defined by the department including but not limited to financial hardship caused by unemployment, illness, medically related expenses, recent death of an immediate family member, a public health emergency as provided in section 2 of P.L.2005, c.222 (C.26:13-2), or a state of emergency pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.).

"Fund" means the Household Water Assistance Fund, established pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Program" means the Household Water Assistance Program, established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Water crisis" means weather-related and supply shortage emergencies and other household water-related emergencies, including but not limited to disconnection of water service for nonpayment, imminent disconnection of service for nonpayment, or other emergency threatening a household's access to safe water service.

"Water service" means service provided by a water system.

"Water system" includes all of the following:

(1) a public community water system, as that term is defined by section 3 of P.L.1977, c.224 (C.58:12A-3);

(2) a stormwater utility established pursuant to P.L.2019, c.42 (C.40A:26B-1 et seq.); and

(3) an authority, as defined in P.L.1983, c. 313 (C.40A:5A-3), municipal public utility, as defined in P.L.1960, c.169 (C.40A:1-1), or public utility, as defined pursuant to section 1 of P.L.1983, c.78 (C.48:2-13.1), that provides sewer service.

2. a. The Commissioner of Community Affairs, in consultation with the board, shall establish the "Household Water Assistance Program" not later than the first day of the eighth month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill). The purposes of the program shall be to provide financial and other assistance to or on behalf of eligible households throughout New Jersey to reduce the cost of water services to those households, prevent the disconnection of water service to households due to inability to pay, and restore water service to households disconnected due to inability to pay.

b. The program required to be created by this section shall, to the greatest extent possible, ensure that the costs of water services are affordable for all eligible households and shall provide the following types of assistance:

(1) direct assistance;

(2) assistance to renters and other households who do not receive a bill from a water system but pay other amounts, fees, or charges related to residential water system service;

(3) water crisis intervention assistance;

(4) water efficiency, leak detection, and plumbing repair measures for eligible households; and

(5) debt relief for arrears, including arrears accrued prior to implementation of the program.

c. The program shall also offer short-term financial support to water systems, as defined by section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) that are not public utilities as defined by section 1 of P.L.1983, c.78 (C.48:2-13) to administer program components, including initial startup costs.

d. The program may provide financial support to a water system that is not a public utility as defined by section 1 of P.L.1983, c.78 (C.48:2-13) to implement one or more of the solutions proposed in an annual expenditure plan pursuant to paragraph (5) of subsection a. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), provided that the total amount of funds used for this purpose shall not exceed three percent of the program's total annual budget.

e. If the commissioner secures federal funding that may be used to provide assistance under the program prior to the first day of the eighth month next following the enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the commissioner shall begin to operate the program on an emergency basis, consistent with any applicable conditions on the State's receipt of such federal funding.

f. The commissioner shall coordinate the program with any existing assistance programs to the extent practicable.

g. In developing the program, the commissioner shall consider adapting program design elements of one or more existing low-income energy assistance programs, including the Universal Service Fund and the Low Income Home Energy Assistance Program.

h. In administering the program, the commissioner shall consult and coordinate with the board and consult with the Household Water Assistance Advisory Group established pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) to develop and publish performance metrics that are disaggregated by utility name, type of water service provided, municipality, and zip code or, to the maximum extent practicable, census tract in lieu of zip code. Performance metrics shall include, but are not limited to, enrollment levels, disconnection of water service for inability to

pay, and on-time payment levels. The commissioner shall coordinate with the board to collect data to track the performance metrics.

i. The commissioner shall, as may be necessary, coordinate and consult with other State agencies concerning aspects of the program and resolve disputes as may be necessary.

3. a. There is established a "Household Water Assistance Advisory Group" to advise the commissioner in the development of the program. The advisory group shall organize no later than 30 days after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) and shall include representatives of each of the following entities, to be appointed by the Governor: a public community water system, as defined by section 3 of P.L.1977, c.224 (C.58:12A-3), that is not a public utility as defined by to section 1 of P.L.1983, c.78 (C.48:2-13); a public community water system, as that term is defined by section 3 of P.L.1977, c.224 (C.58:12A-3), that is a public utility as defined by to section 1 of P.L.1983, c.78 (C.48:2-13); a stormwater utility once it is created pursuant to P.L.2019, c.42 (C.40A:26B-1 et seq.); an authority, as defined in P.L.1983, c. 313 (C.40A:5A-3), or municipal public utility, as defined in P.L.1960, c.169 (C.40A:1-1), that provides sewer services; three representatives of non-governmental organizations that work with, represent, or the membership of which is comprised primarily by low-income residents, including at least two community-based organizations; member of the public that is a member of an eligible household; at least one technical assistance provider, such as organizations that support the federal Low-Income Home Energy Assistance Program or other low income utility assistance programs; at least one local agency or non-profit organization that manages multifamily housing serving low-income residents; at least one person with technical expertise in measuring the affordability of water services for households or evaluating or designing programs to improve the affordability of water services or other utility services or households; at least one municipal official appointed by the Governor, upon the recommendation of the New Jersey State League of Municipalities; and at least one county official appointed by the Governor upon the recommendation of the New Jersey Association of Counties.

b. The commissioner shall consult, coordinate, and collaborate with the advisory group established pursuant to this section on matters related to the development of the program, ongoing matters related to the operation of the program, and the development and adoption of an annual fund expenditure plan developed pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The failure to establish the advisory group established pursuant to subsection a. of this section shall not delay the

establishment and implementation of the program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). Following a failure to establish the advisory group, the commissioner shall independently consult with the stakeholders described under subsection a. of this section and other existing relevant advisory groups in developing the program and the adoption of an annual fund expenditure plan developed pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

4. a. The commissioner shall annually adopt an expenditure plan for assistance to be provided under the program through the "Household Water Assistance Fund" created pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill) after at least one public hearing and opportunity for written public comment on the proposed use and distribution of monies through the fund and a formal opportunity for public comment on a draft expenditure plan.

The annual expenditure plan shall contain, but not be limited to, the following information:

(1) identification of key terms, thresholds, criteria, and metrics, and their definitions related to implementation of the program;

(2) a description of all program elements, how they were selected and prioritized, and how they are coordinated with any other existing assistance programs and other relevant programs listed under the definition of "eligible household" pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill);

(3) a report of expenditures from the fund established pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill) for the prior fiscal year and planned expenditures for each element of the program for the current fiscal year;

(4) an estimate of the number of households eligible for assistance, including those that do not receive a direct bill for water services;

(5 a section that discusses water service affordability challenges and proposed solutions, in addition to the provision of assistance funded through the program, for improving affordability of water service for households served by water systems. An evaluation of solutions shall include, but not be limited to adoption by water systems or local units of government of:

(a) policies and programs that help customers reduce arrears, including:

(i) amortization of an unpaid balance;

(ii) participation in an alternative payment schedule;

(iii) partial or full reduction of an unpaid balance;

(iv) temporary deferral of payment of unpaid balance; and

(v) an arrearage management plan;

(b) low-income discounts;

(c) tiered water rates that ensure that households receive at an affordable cost an amount of water service usage sufficient to meet the household's basic needs;

(d) percentage of income payment plans that ensure that households receive at an affordable cost an amount of water service usage sufficient to meet the household's basic needs;

(e) modification of water system rate schedules to reduce the impact of fixed charges; and

(f) other local or regional programs to improve the affordability of water services.

(6) methods to ensure timely and meaningful public participation and encourage enrollment in the program; and

(7) an estimate of the funding available for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

b. The annual expenditure plan shall identify the funding need of low-income households whose water service costs pose affordability challenges based on metrics developed by the department, in consultation with the board and the Household Water Assistance Advisory Group established pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The annual expenditure plan shall include analysis with metrics, including the metrics developed pursuant to subsection h. of section 2 and subsection b. of this section, to evaluate how expenditures from prior fiscal years improved affordability.

d. Upon completion of each annual expenditure plan, the commissioner shall submit the plan to the Governor, and to the Legislature, and post the annual expenditure plan on the department's Internet website.

5. a. There is hereby created in the department a separate trust fund, to be used for the exclusive purposes as provided in this section, and which shall be known as the "Household Water Assistance Fund." The fund shall be a non-lapsing fund. All monies appropriated annually by the Legislature, federal and other grants received by the State, and any other monies made available for the purposes of the fund shall be deposited in the fund. Additionally, the department shall seek to maximize any available federal funding which may be used for the purposes of administering this program. The department shall be permitted to utilize annually up to 10 percent of the monies available in the fund for the payment of any necessary administrative costs related to the administration of the program, pursuant to subsection a. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. Monies in the fund shall be used by the department for the purposes provided in subsections b., c., and d. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The department, in consultation with the board, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the implementation of this act.

6. a. No later than one year after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall establish a mechanism for public utilities, as defined pursuant to section 1 of P.L.1983, c.78 (C.48:2-13), that provide electric or natural gas service to regularly share with the department any relevant data regarding customers currently enrolled in low-income energy assistance programs that is not already in the possession of the department.

b. The board and the commission shall ensure the data shared and collected pursuant to this section are subject to existing confidentiality protections provided under State law.

7. a. The commissioner may enter into agreements with municipal public utilities, as defined in P.L.1960, c.169 (C.40A:1-1) that provide electric or natural gas service, for the purposes of regularly sharing data with the department regarding utility customers enrolled in, or eligible to be enrolled in, affordability programs benefiting low-income households. The agreements may authorize the department to provide data pursuant to this paragraph to water systems for the sole purpose of assisting with the administration of the program.

b. The commissioner shall ensure the data shared and collected pursuant to this section are subject to existing confidentiality protections provided under State law.

8. There shall be appropriated to the "Household Water Assistance Fund" in the Department of Community Affairs, the sum of $75,000,000 for the purpose of administering the "Household Water Assistance Program", from the funds provided to the State by the United States government under the "American Rescue Plan Act of 2021," Pub.L. 117-2.

9. This act shall take effect immediately.

STATEMENT

This bill would require the Commissioner of the Department of Community Affairs, in consultation with the New Jersey Board of Public Utilities (BPU), to establish the "Household Water

Assistance Program" (program). The purpose of the program would be to provide affordability assistance for water, sewer, and stormwater utility services, to eligible households throughout New Jersey. Under the bill, "eligible households" means a household regardless of the federal immigration status of the members of the household that:

(1) has an income at or below an adjusted gross income to be determined by the department, which shall be equal to or greater than 200 percent of the federal poverty guidelines;

(2) has individuals residing in the eligible household who are receiving the following:

(a) Temporary Assistance for Needy Families;

(b) Supplemental Security Income payments under title XVI of the Social Security Act;

(c) food stamps;

(d) payments under section 415, 521, 541, or 542 of the title 38, United States Code, or under section 306 of the "Veterans' and Survivors' Pension Improvement Act of 1978;" or

(e) payments under the Low Income Home Energy Assistance Program;

(f) benefits under the Universal Service Fund;

(g) benefits under the Lifeline Credit Program;

(h) benefits under the Tenants' Lifeline Assistance Program;

(i) benefits under the Winter Termination Program;

(j) benefits under the Pharmaceutical Assistance to the Aged and Disabled program; or

(k) benefits as defined under P.L.1997, c.14; or

(3) can demonstrate either temporary or ongoing financial hardship according to the department.

Additionally, the bill defines "water system" to include all of the following:

(1) a public community water system, as that term is defined by section 3 of P.L.1977, c.224 (C.58:12A-3);

(2) a stormwater utility established pursuant to P.L.2019, c.42 (C.40A:26B-1 et seq.); and

(3) an authority, as defined in P.L.1983, c. 313 (C.40A:5A-3), municipal public utility, as defined in P.L.1960, c.169 (C.40A:1-1), or public utility, as defined pursuant to section 1 of P.L.1983, c.78 (C.48:2-13.1), that provides sewer service.

The bill provides that the program would provide the following types of financial assistance:

(1) direct assistance;

(2) assistance to renters and other households who do not receive a bill from a water system but pay other amounts, fees, or charges related to residential water system service;

(3) water crisis intervention assistance;

(4) water efficiency, leak detection, and plumbing repair measures for eligible households; and

(5) debt relief for arrears, including arrears accrued prior to implementation of the program.

The commissioner is required to coordinate the program with any existing assistance programs and in developing the program, the commissioner would consider adapting elements of one or more existing low-income energy assistance programs, including the Universal Service Fund and the Low Income Home Energy Assistance Program.

The bill provides that in administering the program, the commissioner is required to consult and coordinate with the New Jersey Board of Public Utilities and the Household Water Assistance Advisory Group to develop and publish performance metrics that are disaggregated by utility name, type of water service provided, municipality, and zip code, which include enrollment levels water shutoffs for inability to pay, and on-time payment levels.

The bill would establish a "Household Water Assistance Advisory Group" to advise the commissioner in the development of the program. The advisory group would include representatives of each of the following entities, to be appointed by the Governor: a public community water system that is not a public utility; a public community water system that is a public utility; a stormwater utility once created; an authority or municipal public utility that provides sewer services; three representatives of non-governmental organizations; a member from the public that comes from an eligible household; at least one technical assistance provider, such as organizations that support the federal Low-Income Home Energy Assistance Program or other low income utility assistance programs; at least one local agency or non-profit organization that manages multifamily housing serving low-income residents; at least one person with technical expertise in measuring the affordability of water services; at least one municipal official appointed by the Governor, upon the recommendation of the New Jersey State League of Municipalities; and at least one county official appointed by the Governor upon the recommendation of the New Jersey Association of Counties

The bill provides that the commissioner would be required to consult, coordinate, and collaborate with the advisory group on certain matters.

The bill would also require the commissioner to annually adopt an expenditure plan for assistance to be provided under the program through the "Water Rate Assistance Fund" (fund) created pursuant to the bill. The fund would be a non-lapsing fund to contain monies appropriated annually by the Legislature, federal and other grants received by the State, and any other monies made available to fund the water affordability assistance required to be provided in the bill.

The bill provides that no later than one year after the enactment of this bill, BPU would be required to establish a mechanism for

public utilities that provide electric or natural gas services to regularly share data with the department regarding customers currently enrolled in low-income energy assistance programs. Additionally, the commissioner would be allowed to enter into agreements with municipal public utilities that provide electric or natural gas service, for the purposes of regularly sharing data with the department regarding utility customers enrolled in, or eligible to be enrolled in, affordability programs benefiting low-income households. The board and the commissioner would be required to ensure that the data shared and collected under the bill would be subject to existing confidentiality protections provided under State law.

The bill would appropriate $75 million to the fund within the department for the purpose of administering the program from the funds provided to the State by the United States government under the "American Rescue Plan Act of 2021," Pub.L. 117-2.