

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 3179

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 30, 2023

The Senate Environment and Energy Committee favorably reports Senate Bill No. 3179 with committee amendments.

This bill, as amended by the committee, would require public water systems to provide certain notifications about elevated perfluoroalkyl and polyfluoroalkyl substances (PFAS) levels in drinking water to customers and local officials, require landlords to notify tenants of elevated PFAS levels in drinking water, and require the Department of Environmental Protection (DEP), in conjunction with the Department of Health (DOH), to establish an educational program concerning the presence of PFAS in drinking water.

Beginning 18 months after the bill's enactment, a public water system whose drinking water exceeds a PFAS maximum contaminant level (MCL) would be required to provide a written notice, via regular or electronic mail, or both, to all customers served by the public water system, including all residences, schools, daycare centers, and facilities serving young children, all public and private hospitals, medical clinics, and doctor's offices serving pregnant women and young children, all local health and welfare agencies in the public water system's service area, and the chief executive of each municipality in the public water system's service area. The written notice would be required to be sent as soon as practicable, but no later than 30 calendar days after the public water system confirms that there has been an exceedance of a PFAS MCL. This notification requirement would be in addition to existing notification requirements under the federal "Safe Drinking Water Act," 42 U.S.C. s.300 et al., or any other State or federal law.

As defined in the bill, "PFAS" means any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom and "PFAS maximum contaminant level" means the applicable maximum contaminant level for PFAS, or a category or type of PFAS, in drinking water established by the DEP pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.).

The written notice to be sent by a public water system would be required to: (1) clearly state that the public water system is in exceedance of a PFAS MCL; (2) explain what the PFAS MCL is and the measurement process that the public water system is required to

perform to monitor drinking water for PFAS; (3) state that drinking water that contains elevated levels of a PFAS can cause negative health effects; (4) provide information to direct the consumer to the educational program developed by the DEP pursuant to section 4 of the bill, including a link to the DEP's Internet website where the educational resources are located; and (5) state, in easily legible type, the responsibility of a landlord to distribute the written notice to every tenant pursuant to section 3 the bill.

The bill would also require public water systems to provide annual written notifications to all customers served by the public water system where an exceedance of a PFAS MCL has been found., until there is no longer an exceedance of the PFAS MCL. The annual written notifications would be required to include, at a minimum: (1) an update on the current status of the mitigation process along with an estimate of the time until the mitigation process will be completed; and (2) any information on what work, if any, has been done to mitigate the contamination or treat the contaminated drinking water supply. The bill would also require public water systems to provide a written notification informing customers when a PFAS exceedance has ended. A public water system that violates any of the notification requirements of the bill would be considered to be in violation of the "Safe Drinking Water Act," which could result in civil administrative penalties of up to \$25,000.

Beginning 18 months after the bill's enactment, the bill would require landlords, whenever they receive a notice or health and safety information from a public water system concerning the presence of PFAS in drinking water, to: (1) distribute the notice or information, by any means including by electronic mail, as soon as practicable, but no later than three business days after receipt, to every tenant who has entered into a lease agreement with the landlord and whose dwelling unit is served by the public water system; and (2) post the notice or information, as soon as practicable, but no later than three business days after receipt, in a prominent location at the entrance of each rental premises that is owned by the landlord and served by the public water system, except in single-family dwellings that do not have a common area. The bill would also require landlords to provide the most recent information about a PFAS exceedance they have received to any prospective tenant prior to signing a lease. A landlord who violates any of the notification requirements of the bill would first receive a written warning from the DEP, and, for subsequent violations, could face a civil administrative penalty of up to \$500.

Finally, the bill would require the DEP and the DOH, no later than one year after the bill's enactment, to establish and implement an educational program concerning PFAS in drinking water. The program would be required to: (1) educate the general public on the subject of PFAS and its environmental and health impacts; (2) provide informational resources specific to PFAS in drinking water; and (3)

provide any other information and efforts that are determined by the DEP or the DOH to be beneficial in educating the public on the presence of PFAS in drinking water. The DEP would be required to publish the educational program to its Internet website and update it annually.

The committee amendments to the bill:

(1) add a definition of "exceedance of a PFAS maximum contaminant level";

(2) clarify that residences are included among the entities required to receive notification about a PFAS MCL exceedance;

(3) require public water systems to provide notice of a PFAS MCL exceedance no later than 30 calendar days, rather than 10 calendar days, after the exceedance is confirmed;

(4) delete a requirement that PFAS MCL exceedance notices contain information on the "possible sources of PFAS in drinking water, the health effects of drinking water with elevated levels of PFAS, and measures a consumer can take to reduce or eliminate PFAS in drinking water" and, instead, require that the notices state that drinking water that contains elevated levels of a PFAS can cause negative health effects;

(5) provide that ongoing notices about PFAS MCL exceedances would be required to be distributed annually, rather than monthly;

(6) require public water systems to provide written notice to their customers when a PFAS MCL exceedance has ended;

(7) allow public water systems to provide the notices required by the bill through regular mail, electronic mail, or both;

(8) clarify that a violation of section 2 of the bill would constitute a violation of the "Safe Drinking Water Act," and provide for a civil administrative penalty of up to \$500 per violation for a violation of section 3 of the bill;

(9) require landlords, during a PFAS MCL exceedance, to provide prospective tenants, prior to a lease signing, with the most recent notification received from the landlord's public water system;

(10) require the DEP to establish the educational program required by the bill in conjunction with the DOH;

(11) require the educational program to contain model notices that can be used by public water systems and landlords to comply with the bill, and information about the health impacts of PFAS in drinking water on sensitive subpopulations;

(12) provide that sections 1 through 3 of the bill would take effect 18 months after the bill's enactment, rather than immediately;

(13) replace references to "remediation" with references to "mitigation" throughout the bill; and

(14) make technical and clarifying changes.