SENATE, No. 3333

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED NOVEMBER 21, 2022

Sponsored by:
Senator NILSA I. CRUZ-PEREZ
District 5 (Camden and Gloucester)
Senator KRISTIN M. CORRADO
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS
Prohibits water utility from taking certain actions if utility fails to participate in Low Income Household Water Assistance Program.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 1/26/2023)
AN ACT concerning the Low Income Household Water Assistance Program and supplementing Title 40A of the New Jersey Statutes and Title 48 of the Revised Statutes.

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

1. a. As used in this section:
   “Department” means the Department of Community Affairs.
   “Local authority” means an authority, as defined in section 3 of P.L.1983, c.313 (C.40A:5A-3), or a water district established pursuant to R.S.40:62-96 et seq., that provides water or wastewater service.
   “Municipal utility” means a municipal public utility, as defined in N.J.S.40A:1-1, that provides water or wastewater service.
   “Residential customer” means a residential customer of record of a local authority or municipal utility, or any residential tenant of a residence where the owner of the residence, or any agent or other representative thereof, is a customer of record of the local authority or municipal utility.
   “Vendor contract” means one or more written agreements entered into between a local authority or municipal utility and the department to effectuate the local authority or municipal utility’s participation in the program, which agreement or agreements shall allow otherwise eligible customers of the local authority or municipal utility to participate in the program.
   b. (1) While the program remains in operation, if a local authority or municipal utility fails to enter into a vendor contract with the department, or otherwise fails to allow eligible residential customers to receive assistance under the program, the local authority or municipal utility shall be prohibited from:
      (a) discontinuing the water or wastewater service of any residential customer for non-payment; and
      (b) placing, selling, or enforcing a lien on real property for the unpaid balance of the water or wastewater service charges of any residential customer.
   (2) While the program remains in operation, each local authority or municipal utility shall advertise, in a form and manner prescribed by the department, eligibility for the program:
      (a) on the bills of every residential customer;
      (b) on the official Internet website of the local authority or municipality, as applicable; and
      (c) in any written communication provided by the local authority or municipal utility to a residential customer in connection with an overdue water or wastewater bill.
Within 10 calendar days following the effective date of P.L. 2022, c. (C. ) (pending before the Legislature as this bill), the department shall provide written notice to each local authority or municipal utility concerning the provisions of this section. When the department determines that the local authority or municipal utility has failed to enter into a vendor contract with the department, or has otherwise failed to allow eligible residential customers to receive assistance under the program, the notice shall indicate, in a clear and conspicuous manner, that the local authority or municipal utility shall be prohibited from discontinuing the water or wastewater service of any residential customer for non-payment, and from placing, selling, or enforcing a lien on real property for the unpaid balances of any residential customer, until such time as the program is terminated, the local authority or municipal utility enters into a vendor contract with the department, or the local authority or municipal utility otherwise allows eligible residential customers to receive assistance under the program.

While the program remains in operation, a local authority or municipal utility shall attest to the department, on a monthly basis, that the local authority or municipal utility is in compliance with the requirements of paragraph (2) of subsection b. of this section, and the department may require the local authority or municipal utility to submit written documentation to the department attesting to such compliance.

Within 10 calendar days of the termination of the program, the department shall provide written notice to each local authority or municipal utility indicating that the provisions of subsection b. of this section no longer apply.

A local authority or municipal utility that violates the provisions of subsection b. of this section shall be subject to a penalty of $500 for each calendar day in which water or wastewater service is discontinued for a residential customer and a fine of $100 for each instance in which the local authority or municipal utility fails to advertise eligibility for the program, including each residential customer bill that fails to include this information. Any penalty imposed under this section shall be collected, with costs, in a civil action by a summary proceeding under the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction over such proceedings.

If a local authority or municipal utility discontinues the water or wastewater service of a residential customer for non-payment, in violation of the provisions of subsection b. of this section, the discontinuance shall be nullified and service shall be restored immediately.

If a local authority or municipal utility places, sells, or enforces a lien on the real property of a residential customer, in
violation of the provisions of subsection b. of this section, the lien shall be deemed null and void.

e. Within 14 calendar days following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the department shall provide written, plain language instructions, including, but not limited to, a response to frequently asked questions, to each local authority and municipal utility concerning the duties and responsibilities of the local authority or municipal utility under the vendor contract, any other duties and responsibilities of a local authority or municipal utility that enters into a vendor contract, as well as any other information that the department may deem appropriate.

f. Within 14 calendar days following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and every 14 calendar days thereafter until the termination of the program, the department shall provide written notice to each local authority or municipal utility, which notice shall indicate:
   (1) the name, address, and utility account number of each residential customer of the local authority or municipal utility that has submitted an application to the department for the program;
   (2) the name, address, and utility account number of each residential customer of the local authority or municipal utility that has been approved or denied by the department to participate in the program; and
   (3) any other information that the department deems appropriate.

2. a. As used in this section:
   “Board” means the Board of Public Utilities.
   “Department” means the Department of Community Affairs.
   “Residential customer” means a residential customer of record of a water public utility, or any residential tenant of a residence where the owner of the residence, or any agent or other representative thereof, is a customer of record of the water public utility.
   “Vendor contract” means one or more written agreements entered into between a water public utility and the department to effectuate the water public utility’s participation in the program, which agreement or agreements shall allow otherwise eligible customers of the water public utility to participate in the program.
   “Water public utility” means a public utility, as defined in R.S.48:2-13, that provides water or wastewater service.

   b. (1) While the program remains in operation, if a water public utility fails to enter into a vendor contract with the department, or otherwise fails to allow eligible residential customers to receive assistance under the program, the water public utility
utility shall be prohibited from discontinuing the water or wastewater service of any residential customer for non-payment.

(2) In addition to any information contained in the Customer Bill of Rights approved by the board, while the program remains in operation, each water public utility shall advertise, in a form and manner prescribed by the department, eligibility for the program:

(a) on the bills of every residential customer;
(b) on the official Internet website of the water public utility; and
(c) in any written communication provided by the water public utility to a residential customer in connection with an overdue water or wastewater bill.

c. (1) Within 10 calendar days following the effective date of P.L. c. (C. ) (pending before the Legislature as this bill), the board shall provide written notice to each water public utility concerning the provisions of this section.

(2) When the department determines that the water public utility has failed to enter into a vendor contract with the department, or has otherwise failed to allow eligible residential customers to receive assistance under the program, the department shall provide written notice to the water public utility. The notice shall indicate, in a clear and conspicuous manner, that the water public utility shall be prohibited from discontinuing the water or wastewater service of any residential customer for non-payment until such time as the program is terminated, the water public utility enters into a vendor contract with the department, or the water public utility otherwise allows eligible residential customers to receive assistance under the program. Upon providing the notice to the water public utility, the department shall also provide a copy of the notice, including an identification of the water public utility, to the board.

(3) While the program remains in operation, a water public utility shall attest to the board, on a monthly basis, that the water public utility is in compliance with the requirements of paragraph (2) of subsection b. of this section, and the board may require the water public utility to submit written documentation to the board attesting to such compliance.

(4) Within 10 calendar days of the termination of the program, the board shall provide written notice to each water public utility indicating that the provisions of subsection b. of this section no longer apply.

d. (1) A water public utility that violates the provisions of subsection b. of this section shall be subject to a penalty of $500 for each calendar day in which water or wastewater service is discontinued for a residential customer and a fine of $100 for each instance in which the water public utility fails to advertise eligibility for the program, including each residential customer bill that fails to include this information. Any penalty imposed under this section shall be collected, with costs, in a civil action by a
summary proceeding under the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction over such proceedings.

(2) If a water public utility discontinues the water or wastewater service of a residential customer for non-payment, in violation of the provisions of subsection b. of this section, the discontinuance shall be nullified and service shall be restored immediately.

e. Within 14 calendar days following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the department shall provide written, plain language instructions, including, but not limited to, a response to frequently asked questions, to each water public utility concerning the duties and responsibilities of the water public utility under the vendor contract, any other duties and responsibilities of a water public utility that enters into a vendor contract, as well as any other information that the department may deem appropriate.

f. Within 14 calendar days following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and every 14 calendar days thereafter until the termination of the program, the department shall provide written notice to each water public utility, which notice shall indicate:

   (1) the name, address, and utility account number of each residential customer of the water public utility that has submitted an application to the department for the program;

   (2) the name, address, and utility account number of each residential customer of the water public utility that has been approved or denied by the department to participate in the program; and

   (3) any other information that the department deems appropriate.

3. a. Notwithstanding any provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Department of Community Affairs, in consultation with the Board of Public Utilities, shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of this act, such rules and regulations as the department deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 12 months. The regulations may thereafter be amended, adopted, or readopted by the department in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Notwithstanding any provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Board of Public Utilities, in consultation with the Department of Community Affairs, shall adopt, immediately upon
filing with the Office of Administrative Law and no later than the 90th day after the effective date of this act, such rules and regulations as the board deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 12 months. The regulations may thereafter be amended, adopted, or readopted by the board in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately.

STATEMENT

This bill imposes certain requirements on water service providers, including local authorities, municipal utilities, and water public utilities, concerning their participation in the Low Income Household Water Assistance Program (LIHWAP).

Currently, the Department of Community Affairs (DCA) uses federal funding to administer the LIHWAP, which provides financial assistance toward the water and wastewater bills of certain low-income households. As required under federal law, this financial assistance is provided directly to the water service providers that service participating low-income households.

However, before the customers of a water service provider can receive assistance under the program, the water service provider is required to enter into a vendor contract with the DCA to effectuate their participation in the program.

While the LIHWAP remains in operation, the bill provides that if a water service provider fails to enter into a vendor contract with the DCA, or the water service provider otherwise fails to allow eligible customers to receive assistance under the LIHWAP, the water service provider would be prohibited from: (1) discontinuing the water or wastewater service of any residential customer for non-payment; and (2) in the case of a local authority or municipal utility, placing, selling, or enforcing a lien on real property for the unpaid balance of the water or wastewater charges of any residential customer. A water service provider that violates this prohibition would be subject to a fine of $500 for each calendar day in which the water or wastewater service is discontinued for non-payment.

Additionally, the bill requires each water service provider to advertise, in a manner and form prescribed by the DCA, eligibility for the LIHWAP on the bills of every residential customer, on the water service provider’s Internet website, and in any written communications provided to a residential customer in connection to an overdue water or wastewater bill. A water service provider that violates this requirement would be subject to a fine of $100 for each
instance in which the water service provider fails to advertise eligibility for the program, including residential customer bill that fails to include this information.

The bill also requires the DCA and the Board of Public Utilities to provide written notice to water service providers concerning the provisions of this bill. If the DCA determines that the water service provider has failed to enter into a vendor contract with the DCA, or has otherwise failed to allow eligible residential customers to receive assistance under the LIHWAP, the notice would be required to indicate, in a clear and conspicuous manner, that the water service provider is prohibited from: (1) discontinuing the water or wastewater service of any residential customer for non-payment; and (2) in the case of a local authority or municipal utility, placing, selling, or enforcing a lien on real property for the unpaid balance of the water or wastewater charges of any residential customer. The bill also requires separate notice to be provided when the LIHWAP is terminated and the provisions of the bill no longer apply.

The bill also requires the DCA to provide written instructions to each water service provider concerning the duties and responsibilities of the water service provider under the vendor contract, as well as any other duties and responsibilities of a water service provider that enters into a vendor contract. The bill also requires the DCA to provide bi-weekly written notice to each water service provider concerning the status of every residential customer who applies for the LIHWAP.