

January 8, 2024

**ASSEMBLY COMMITTEE SUBSTITUTE
FOR ASSEMBLY BILL NOS. 4821 AND 4823
(First Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill Nos. 4821 and 4823 (First Reprint) with my recommendations for reconsideration.

This bill would require the Department of Environmental Protection ("DEP") and the Drinking Water Quality Institute ("DWQI") to establish a definition of "microplastics" and testing methodologies for microplastics in drinking water. The bill would further require the DEP, within three years, to adopt rules establishing microplastics testing and reporting requirements for drinking water systems and institute criteria for laboratory certification.

In addition, the bill would require the DEP and the Board of Public Utilities ("BPU") to complete a study, within two years, of the feasibility and benefits of using microplastics removal technologies in drinking water and wastewater systems, and to submit a report to the Governor and Legislature with the results of the study. The study would include pilot microplastics removal projects and stakeholder engagement; and the report would include recommendations for legislative and executive actions and the development of a strategic plan to deploy, approve, and incentivize microplastics removal technologies.

Following the submission of the report, the DEP and the BPU would be required to undertake a public education campaign to inform water system owners and the public about the importance of microplastics removal, available technologies, the goals and primary elements of the strategic plan, and available incentives. The agencies would also be required to issue permits for removal

projects and, within the limits of appropriated funding, to establish incentive programs to promote the use of removal technologies.

I commend the sponsors of Assembly Committee Substitute for Assembly Bill Nos. 4821 and 4823 (First Reprint) for their attention to the concerns associated with the ever-increasing prevalence of microplastics in drinking water, wastewater, and the environment in general; their efforts to take a multifaceted approach to the problem; and their recognition of the need for significant further study of this emerging issue. However, I have concerns with several aspects of the bill as passed.

In particular, I am concerned that this bill requires the development of methodologies for testing in advance of the study and requires DEP to promulgate regulations requiring mandatory testing and reporting immediately after the required study is completed. Rather, in an area of emerging science such as this, the results of an initial study, and particularly the findings with respect to impacts on human health, are necessary to inform the next steps that DEP and DWQI will take. For a contaminant found to pose a health risk, those next steps typically include more detailed studies of precise human health effects, actual testing capability, and treatment capacity, all of which are necessary in order for DEP to take steps to regulate a contaminant. This further evaluation may, but does not always need to, include collection of data on local occurrence of the contaminant. I am therefore recommending that, instead of requiring DEP to establish testing methodologies and sampling requirements, the bill be amended to require DEP to develop a definition of microplastics in drinking water as part of the study and, following submission of the report, to require DEP to work with DWQI to undertake the

further studies necessary to inform future regulatory development if the study shows that microplastics in drinking water pose a health risk.

I am further concerned that the requirement for the State to develop a plan to provide financial support and incentives for the deployment of microplastics removal technologies gets ahead of the very study the bill requires, presupposing that such technologies will be found to be feasible and cost-effective; that the public health and environmental risks of microplastics will justify the State financing the deployment of these technologies; and that a State plan coupled with incentives will be the best way to address potential health and environmental risks. As a result, I am recommending that the final report not be required to include a strategic deployment plan, procedures for approving proposals, or financial incentives to promote adoption. The report will still be required to provide recommendations on all actions that should be taken to facilitate, encourage, promote, support, or require removal of microplastics from drinking water; and DEP will still be required to evaluate the benefits of different technologies and the feasibility and desirability of establishing incentive or other financial support programs. As such, the final report will necessarily include recommendations on these issues that the study shows to be appropriate.

Additionally, in light of the significant extent of the issues to be studied and the limited available science to date on many of these issues, I am recommending that the study be narrowed to focus on microplastics in drinking water to provide a more manageable and cohesive scope, and that DEP be given additional time to complete the study. I am, however, also recommending that DEP evaluate, as part of the study, important related questions

regarding the entry of microplastics into our water resources and their proper disposal once removed. DEP will also be required to assess a broader range of options for providing support to water systems with particular attention to smaller local utilities and authorities, which may face particular financial barriers when it comes to implementing new technologies.

With respect to implementation of the study recommendations, I am similarly recommending that, if DEP develops grant, financing, or incentive programs based on the recommendations of the study report, such programs have a primary focus on smaller municipal and local systems.

Finally, I am recommending other minor changes to provide greater clarity and administrability, including removing BPU from the study because the study's scope falls squarely within the DEP's expertise as the agency responsible for ensuring water quality and evaluating environmental contaminants; requiring DEP to coordinate with the Department of Health with respect to the public education and awareness campaign; and specifying that the recovery in rates by any public utility regulated by BPU of costs associated with any pilot or permanent projects is subject to BPU approval.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill Nos. 4821 and 4823 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Line 12: After "Protection." insert as new line ""Non-investor-owned public community water system" means a public community water system or the owner of 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 not investor-owned."

Page 2, Section 1, Line 17: Delete "or a wastewater system"

Page 2, Sections 2-3, Lines 19-39: Delete in their entirety

Page 2, Section 4, Line 41: Delete "4" and insert "2"

Page 2, Section 4, Lines 42-43: Delete "and the Board of Public Utilities" and insert ", in consultation with the Plastics Advisory Council established pursuant to section 7 of P.L.2020, c.117 (C.13:1E-99.132) where appropriate,"

Page 2, Section 4, Line 44: After "evaluate the" insert "current"

Page 3, Section 4, Line 2: Delete "and wastewater"

Page 3, Section 4, Line 3: Delete "two" and insert "three"

Page 3, Section 4, Line 4: After "include" insert "the development of a definition of a microplastics in drinking water and"

Page 3, Section 4, Line 8: After "chain;" insert as new line "(2) the origin and migration of microplastics in the State's waters, and methods for avoiding the accumulation of microplastics in drinking water and other water resources;"

Page 3, Section 4, Line 9: Delete "2" and insert "3"

Page 3, Section 4, Line 12: Delete "3" and insert "4"

Page 3, Section 4, Line 14: Delete "and wastewater,"

Page 3, Section 4, Line 15: Delete "4" and insert "5"

Page 3, Section 4, Line 18: Delete "and wastewater,"

Page 3, Section 4, Line 20: Delete "5" and insert "6"

Page 3, Section 4, Line 22: After "countries;" insert as new line "(7) appropriate methods for disposal of microplastics that have been removed from drinking water;"

Page 3, Section 4, Line 23: Delete "6" and insert "8"

Page 3, Section 4, Line 23: After "establishing a" insert "a grant or financing program or"

Page 3, Section 4, Line 28: After "State" insert ", with particular attention to the financial needs of non-investor-owned public community water systems"

Page 3, Section 4, Line 29: Delete "7" and insert "9"

Page 3, Section 4, Line 30: Delete ", by the board and"

Page 3, Section 4, Line 30: After "department" delete ", "

<u>Page 3, Section 4, Lines 30-31:</u>	Delete "soliciting and approving" and insert "evaluating"
<u>Page 3, Section 4, Line 33:</u>	Delete "and board shall" and insert "may, if appropriate,"
<u>Page 3, Section 4, Line 37:</u>	Delete "shall" and insert "may"
<u>Page 3, Section 4, Line 47:</u>	After "supply" delete "," and insert "or"
<u>Page 3, Section 4, Lines 47-48:</u>	Delete ", or wastewater collection or treatment systems"
<u>Page 4, Section 4, Line 4:</u>	Delete "marine biologists, oceanographers,"
<u>Page 4, Section 4, Lines 11-12:</u>	Delete "and the President of the board"
<u>Page 4, Section 4, Line 12:</u>	Delete "cooperatively"
<u>Page 4, Section 4, Line 18:</u>	Delete "can" and insert "should"
<u>Page 4, Section 4, Line 18:</u>	Delete "and"
<u>Page 4, Section 4, Line 18:</u>	After "promote" insert ", support, or require"
<u>Page 4, Section 4, Line 19:</u>	Delete "increased use" and insert "removal"
<u>Page 4, Section 4, Line 19:</u>	Delete "removal technologies" and insert "from drinking water"
<u>Page 4, Section 4, Line 19:</u>	Delete "At a"
<u>Page 4, Section 4, Lines 20-35:</u>	Delete in their entirety
<u>Page 4, Section 4, Line 37:</u>	Delete "and the board"
<u>Page 4, Section 4, Line 38:</u>	After "report," insert "and in coordination with the Department of Health,"
<u>Page 4, Section 4, Lines 38-39:</u>	Delete "an ongoing, cooperative" and insert "a"
<u>Page 4, Section 4, Line 45:</u>	Delete "and wastewater"
<u>Page 4, Section 4, Line 48:</u>	After "water;" insert "and"
<u>Page 5, Section 4, Lines 1-2:</u>	Delete in their entirety
<u>Page 5, Section 4, Line 3:</u>	Delete "e" and insert "d"
<u>Page 5, Section 4, Line 3:</u>	After "incentives" insert "or other financial assistance"
<u>Page 5, Section 4, Line 6:</u>	Delete "authorize, and issue" and insert "establish a process to review and act upon applications for such"

Page 5, Section 4, Lines 6-7: Delete "to enable," and insert "for"

Page 5, Section 4, Line 7: After "of" insert "any"

Page 5, Section 4, Line 10: Delete "and" and insert as new line "(3) if the study finds that consumption of microplastics via drinking water poses a health risk, work with the Drinking Water Quality Institute to conduct the further evaluations of human health effects, testing capabilities, and treatment capacity for microplastics in drinking water necessary to inform future regulatory development by the department; and"

Page 5, Section 4, Line 11: Delete "3" and insert "4"

Page 5, Section 4, Lines 12-13: Delete "or the board for their purposes"

Page 5, Section 4, Line 13: After "establish" insert "grant, financing,"

Page 5, Section 4, Line 14: After "to" insert "support,"

Page 5, Section 4, Line 16: After "State" insert ", with a primary focus on the financial needs of non-investor-owned public community water systems.

f. Recovery in rates by any system owner or operator subject to the rate-setting jurisdiction of the board of any costs associated with studying, piloting, or implementing technologies, processes, or techniques required to meet the goals of the legislation shall be subject to approval by the board"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor