

[Second Reprint]

**ASSEMBLY, No. 1649**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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**Assemblymen Singleton, Coughlin, Assemblywoman Jasey and  
Assemblyman Rooney**

**SYNOPSIS**

Requires local governments and authorities to obtain financing cost estimate from NJ Environmental Infrastructure Trust for certain projects.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on December 15, 2016, with amendments.

**(Sponsorship Updated As Of: 2/16/2017)**

1 AN ACT concerning the financing of environmental infrastructure  
 2 projects, <sup>1</sup>and<sup>1</sup> supplementing N.J.S.40A:2-1 et seq. <sup>1</sup>**[and] <sup>1</sup>  
 3 P.L.1983, c.313 (C.40A:5A-1 et seq.), and <sup>1</sup>**[amending and**  
 4 **supplementing]**<sup>1</sup> P.L.1985, c.334 <sup>1</sup>(C.58:11B-1 et seq.)<sup>1</sup> .  
 5**

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
 7 of New Jersey:  
 8

9 1. <sup>2</sup>**[(New section)]**<sup>2</sup> a. A local government unit seeking to  
 10 finance \$1,000,000 or more of the costs of any environmental  
 11 infrastructure project or project component shall submit a request  
 12 for a financing cost estimate for the project on a form made  
 13 available online by the trust pursuant to section 2 of P.L. ,  
 14 c. (C. ) (pending before the Legislature as this bill).

15 b. A local government unit that is awarded a grant for all or  
 16 part of the costs of an environmental infrastructure project shall not  
 17 be required to submit a request for a financing cost estimate  
 18 pursuant to this section if the local government unit is seeking to  
 19 finance less than \$1,000,000 of the remaining costs of that project  
 20 or project component.

21 <sup>1</sup>c. A local government unit shall not be required to submit a  
 22 request for a financing cost estimate pursuant to this section for an  
 23 environmental infrastructure project the appropriation of which was  
 24 approved either by ordinance of a municipality or by resolution of  
 25 an authority <sup>2</sup>or county<sup>2</sup> , as appropriate, prior to or on the  
 26 <sup>2</sup>effective<sup>2</sup> date of <sup>2</sup>[enactment of P.L. , c. (C. ) (pending  
 27 before the Legislature as this bill)] <sup>2</sup>this section<sup>2</sup> .<sup>1</sup>  
 28

29 2. <sup>2</sup>**[(New section)]**<sup>2</sup> a. The trust shall make available a  
 30 financing cost estimate to any local government unit seeking to  
 31 finance \$1,000,000 or more of the costs of an environmental  
 32 infrastructure project or project component. The financing cost  
 33 estimate shall provide a local government unit with an estimate of  
 34 the costs of financing an environmental infrastructure project  
 35 through the trust to enable the local government unit to evaluate,  
 36 and other interested parties to consider, the potential savings of trust  
 37 financing, including interest costs, compared to other available  
 38 methods of financing the project.

39 b. The trust may require the local government unit to provide  
 40 information concerning the project and the borrower needed to  
 41 generate a financing cost estimate, including, but not limited to, a  
 42 detailed description of the project, design, engineering and  
 43 environmental information, a cost estimate prepared by the project

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AEN committee amendments adopted February 8, 2016.

<sup>2</sup>Senate SBA committee amendments adopted December 15, 2016.

1 engineer or other qualified person, information regarding the  
2 borrower, the amount to be financed, and any other information the  
3 trust deems relevant in order for the cost estimate to be as accurate  
4 as possible.

5 The trust, in conjunction with the Department of Environmental  
6 Protection, shall provide with the financing cost estimate;

7 (1) a description of the priority system used by the Department  
8 of Environmental Protection in awarding financing under the  
9 program; and

10 (2) a comparison of the estimates of the cost of issuance and  
11 underwriting fees, servicing fees, and interest costs for a project  
12 financed through the trust versus a project financed independently  
13 by the local government unit through its own bond process.

14 c. The trust, through its web site, shall make available online a  
15 form that may be completed by the local government unit for  
16 submission to the trust in order for the trust to make an estimate of  
17 financing costs for the project. Upon submission of the completed  
18 form, the trust shall, within <sup>1</sup>~~15~~ 5 days thereafter, provide an  
19 estimate of the financing costs and possible interest rate that may be  
20 made available for the project.

21

22 3. <sup>2</sup>~~[(New section)]~~<sup>2</sup> A local unit that does not finance an  
23 environmental infrastructure project with funding provided by the  
24 New Jersey Environmental Infrastructure Trust shall submit the  
25 financing cost estimate provided by the New Jersey Environmental  
26 Infrastructure Trust pursuant to section 2 of P.L. , c. (C. )  
27 (pending before the Legislature as this bill) together with the  
28 supplemental debt statement that is submitted to the Director of the  
29 Division of Local Government Services in the Department of  
30 Community Affairs pursuant to N.J.S.40A:2-42.

31 As used in this section, "environmental infrastructure project"  
32 shall have the same meaning as provided in section 3 of P.L.1985,  
33 c.334 (C.58:11B-3).

34

35 4. <sup>2</sup>~~[(New section)]~~<sup>2</sup> An authority that does not finance an  
36 environmental infrastructure project with funding provided by the  
37 New Jersey Environmental Infrastructure Trust shall submit the  
38 financing cost estimate provided by the New Jersey Environmental  
39 Infrastructure Trust pursuant to section 2 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill) together with the  
41 proposed project financing that is submitted to the Local Finance  
42 Board in the Division of Local Government Services in the  
43 Department of Community Affairs pursuant to section 6 of  
44 P.L.1983, c.313 (C.40A:5A-6).

45 As used in this section, "environmental infrastructure project"  
46 shall have the same meaning as provided in section 3 of P.L.1985,  
47 c.334 (C.58:11B-3).

1       <sup>1</sup>[5. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to  
2 read as follows:

3       6. a. Except as may be otherwise expressly provided in the  
4 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
5 c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue  
6 its bonds, notes or other obligations in any principal amounts as in  
7 the judgment of the trust shall be necessary to provide sufficient  
8 funds for any of its corporate purposes, including the payment,  
9 funding or refunding of the principal of, or interest or redemption  
10 premiums on, any bonds, notes or other obligations issued by it,  
11 whether the bonds, notes or other obligations or the interest or  
12 redemption premiums thereon to be funded or refunded have or  
13 have not become due, the establishment or increase of reserves or  
14 other funds to secure or to pay the bonds, notes or other obligations  
15 or interest thereon and all other costs or expenses of the trust  
16 incident to and necessary to carry out its corporate purposes and  
17 powers.

18       b. Whether or not the bonds, notes or other obligations of the  
19 trust are of a form and character as to be negotiable instruments  
20 under the terms of Title 12A of the New Jersey Statutes, the bonds,  
21 notes and other obligations are made negotiable instruments within  
22 the meaning of and for the purposes of Title 12A of the New Jersey  
23 Statutes, subject only to the provisions of the bonds, notes and other  
24 obligations for registration.

25       c. Bonds, notes or other obligations of the trust shall be  
26 authorized by a resolution or resolutions of the trust and may be  
27 issued in one or more series and shall bear any date or dates, mature  
28 at any time or times, bear interest at any rate or rates of interest per  
29 annum, be in any denomination or denominations, be in any form,  
30 either coupon, registered or book entry, carry any conversion or  
31 registration privileges, have any rank or priority, be executed in any  
32 manner, be payable in any coin or currency of the United States  
33 which at the time of payment is legal tender for the payment of  
34 public and private debts, at any place or places within or without  
35 the State, and be subject to any terms of redemption by the trust or  
36 the holders thereof, with or without premium, as the resolution or  
37 resolutions may provide. A resolution of the trust authorizing the  
38 issuance of bonds, notes or other obligations may provide that the  
39 bonds, notes or other obligations be secured by a trust indenture  
40 between the trust and a trustee, vesting in the trustee any property,  
41 rights, powers and duties in trust consistent with the provisions of  
42 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-  
43 10.1 et al.) as the trust may determine.

44       d. Bonds, notes or other obligations of the trust may be sold at  
45 any price or prices and in any manner as the trust may determine.  
46 Each bond, note or other obligation shall mature and be paid not  
47 later than ~~[20]~~ 30 years from the effective date thereof, or the  
48 certified useful life of the project or projects to be financed by the

1 bonds, whichever is less , or such shorter period of time as shall be  
2 applicable to any companion loan issued pursuant to federal law or  
3 regulation.

4 All bonds of the trust shall be sold at **[such]** a price or prices and  
5 in **[such]** a manner as the trust shall determine, either pursuant to  
6 (1) a private negotiated sale, or (2) a competitive sale, and in the  
7 case of a competitive sale, after notice of sale, a summary of which  
8 shall be published at least once in at least three newspapers  
9 published in the State of New Jersey and at least once in a  
10 publication carrying municipal bond notices and devoted primarily  
11 to financial news published in New Jersey or the city of New York,  
12 the first summary notice to be at least five days prior to the day of  
13 bidding. The notice of sale may contain a provision to the effect  
14 that any or all bids made in pursuance thereof may be rejected. In  
15 the event of such rejection or of failure to receive any acceptable  
16 bid, the trust, at any time within 60 days from the date of such  
17 advertised sale, may sell such bonds at private sale upon terms not  
18 less favorable to the State than the terms offered by any rejected  
19 bid. The trust may sell all or part of the bonds of any series as  
20 issued to any State fund or to the federal government or any agency  
21 thereof, at private sale, without advertisement.

22 e. Bonds, notes or other obligations of the trust may be issued  
23 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or  
24 P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the  
25 consent of any department, division, board, bureau or agency of the  
26 State, and without any other proceedings or the happening of any  
27 other conditions or things, other than those consents, proceedings,  
28 conditions or things which are specifically required by P.L.1985,  
29 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et  
30 al.).

31 f. Bonds, notes or other obligations of the trust issued under  
32 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
33 c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the  
34 State or of any political subdivision thereof other than the trust and  
35 shall not create or constitute any indebtedness, liability or  
36 obligation of the State or any political subdivision, but all these  
37 bonds, notes and other obligations, unless funded or refunded by  
38 bonds, notes or other obligations, shall be payable solely from  
39 revenues or funds pledged or available for their payment as  
40 authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
41 c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall  
42 contain on its face a statement to the effect that the trust is obligated  
43 to pay the principal thereof or the interest thereon only from its  
44 revenues, receipts or funds pledged or available for their payment  
45 as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
46 c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any  
47 political subdivision thereof, is obligated to pay the principal or  
48 interest and that neither the faith and credit nor the taxing power of

1 the State, or any political subdivision thereof, is pledged to the  
2 payment of the principal of or the interest on the bonds, notes or  
3 other obligations.

4 g. The aggregate principal amount of bonds, notes or other  
5 obligations, including subordinated indebtedness of the trust, shall  
6 not exceed (1) \$5,000,000,000 with respect to bonds, notes or other  
7 obligations issued to finance the Disaster Relief Emergency  
8 Financing Program established pursuant to section 1 of P.L.2013,  
9 c.93 (C.58:11B-9.5), and (2) \$2,800,000,000 with respect to bonds,  
10 notes or other obligations issued for all other purposes of the trust.  
11 In computing the foregoing limitations there shall be excluded all  
12 the bonds, notes or other obligations, including subordinated  
13 indebtedness of the trust, which shall be issued for refunding  
14 purposes, whenever the refunding shall be determined to result in a  
15 savings.

16 (1) Upon the decision by the trust to issue refunding bonds,  
17 except for current refunding, and prior to the sale of those bonds,  
18 the trust shall transmit to the Joint Budget Oversight Committee, or  
19 its successor, a report that a decision has been made, reciting the  
20 basis on which the decision was made, including an estimate of the  
21 debt service savings to be achieved and the calculations upon which  
22 the trust relied when making the decision to issue refunding bonds.  
23 The report shall also disclose the intent of the trust to issue and sell  
24 the refunding bonds at public or private sale and the reasons  
25 therefor.

26 (2) The Joint Budget Oversight Committee or its successor shall  
27 have the authority to approve or disapprove the sales of refunding  
28 bonds as included in each report submitted in accordance with  
29 paragraph (1) of this subsection. The committee shall notify the  
30 trust in writing of the approval or disapproval within 30 days of  
31 receipt of the report. Should the committee not act within 30 days  
32 of receipt of the report, the trust may proceed with the sale of the  
33 refunding bonds, provided that the sale of refunding bonds shall  
34 realize not less than 3.00% net present value debt service savings.

35 (3) No refunding bonds shall be issued unless the report has  
36 been submitted to and approved by the Joint Budget Oversight  
37 Committee or its successor as set forth in paragraphs (1) and (2) of  
38 this subsection.

39 (4) Within 30 days after the sale of the refunding bonds, the  
40 trust shall notify the committee of the result of that sale, including  
41 the prices and terms, conditions and regulations concerning the  
42 refunding bonds, the actual amount of debt service savings to be  
43 realized as a result of the sale of refunding bonds, and the intended  
44 use of the proceeds from the sale of those bonds.

45 (5) The committee shall review all information and reports  
46 submitted in accordance with this subsection and may, on its own  
47 initiative, make observations to the trust, or to the Legislature, or  
48 both, as it deems appropriate.

1 h. Each issue of bonds, notes or other obligations of the trust  
2 may, if it is determined by the trust, be general obligations thereof  
3 payable out of any revenues, receipts or funds of the trust, or  
4 special obligations thereof payable out of particular revenues,  
5 receipts or funds, subject only to any agreements with the holders of  
6 bonds, notes or other obligations, and may be secured by one or  
7 more of the following:

8 (1) Pledge of revenues and other receipts to be derived from the  
9 payment of the interest on and principal of notes, bonds or other  
10 obligations issued to the trust by one or more local government  
11 units, and any other payment made to the trust pursuant to  
12 agreements with any local government units, or a pledge or  
13 assignment of any notes, bonds or other obligations of any local  
14 government unit and the rights and interest of the trust therein;

15 (2) Pledge of rentals, receipts and other revenues to be derived  
16 from leases or other contractual arrangements with any person or  
17 entity, public or private, including one or more local government  
18 units, or a pledge or assignment of those leases or other contractual  
19 arrangements and the rights and interest of the trust therein;

20 (3) Pledge of all moneys, funds, accounts, securities and other  
21 funds, including the proceeds of the bonds, notes or other  
22 obligations;

23 (4) Pledge of the receipts to be derived from the payments of  
24 State aid, payable to the trust pursuant to section 12 of P.L.1985,  
25 c.334 (C.58:11B-12);

26 (5) A mortgage on all or any part of the property, real or  
27 personal, of the trust then owned or thereafter to be acquired, or a  
28 pledge or assignment of mortgages made to the trust by any person  
29 or entity, public or private, including one or more local government  
30 units and the rights and interest of the trust therein.

31 i. The trust shall not issue any bonds, notes or other  
32 obligations, or otherwise incur any additional indebtedness, on or  
33 after June 30, 2033.

34 j. (Deleted by amendment, P.L.1996, c.88)  
35 (cf: P.L.2013, c.93, s.2)]<sup>1</sup>

36

37 <sup>1</sup>**[6.] 5.**<sup>1</sup> Sections 1, 3, and 4 of this act shall take effect on the  
38 180th day after the date of enactment and the remainder of this act  
39 shall take effect immediately.