

§§1,2 -  
C.58:11B-5.1 &  
58:11B-5.2  
§3 - C.40A:2-24.1  
§4 –  
C.40A:5A-6.1  
§5 - Note

P.L.2017, CHAPTER 71, *approved May 11, 2017*  
Assembly, No. 1649 (*Second Reprint*)

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

**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 the costs of financing an environmental infrastructure project  
2 through the trust to enable the local government unit to evaluate,  
3 and other interested parties to consider, the potential savings of trust  
4 financing, including interest costs, compared to other available  
5 methods of financing the project.

6 b. The trust may require the local government unit to provide  
7 information concerning the project and the borrower needed to  
8 generate a financing cost estimate, including, but not limited to, a  
9 detailed description of the project, design, engineering and  
10 environmental information, a cost estimate prepared by the project  
11 engineer or other qualified person, information regarding the  
12 borrower, the amount to be financed, and any other information the  
13 trust deems relevant in order for the cost estimate to be as accurate  
14 as possible.

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

17 (1) a description of the priority system used by the Department  
18 of Environmental Protection in awarding financing under the  
19 program; and

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

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

31

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

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

44

45 4. <sup>2</sup>~~[(New section)]~~<sup>2</sup> An authority that does not finance an  
46 environmental infrastructure project with funding provided by the  
47 New Jersey Environmental Infrastructure Trust shall submit the  
48 financing cost estimate provided by the New Jersey Environmental

1 Infrastructure Trust pursuant to section 2 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill) together with the  
3 proposed project financing that is submitted to the Local Finance  
4 Board in the Division of Local Government Services in the  
5 Department of Community Affairs pursuant to section 6 of  
6 P.L.1983, c.313 (C.40A:5A-6).

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

10

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

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

28 b. Whether or not the bonds, notes or other obligations of the  
29 trust are of a form and character as to be negotiable instruments  
30 under the terms of Title 12A of the New Jersey Statutes, the bonds,  
31 notes and other obligations are made negotiable instruments within  
32 the meaning of and for the purposes of Title 12A of the New Jersey  
33 Statutes, subject only to the provisions of the bonds, notes and other  
34 obligations for registration.

35 c. Bonds, notes or other obligations of the trust shall be  
36 authorized by a resolution or resolutions of the trust and may be  
37 issued in one or more series and shall bear any date or dates, mature  
38 at any time or times, bear interest at any rate or rates of interest per  
39 annum, be in any denomination or denominations, be in any form,  
40 either coupon, registered or book entry, carry any conversion or  
41 registration privileges, have any rank or priority, be executed in any  
42 manner, be payable in any coin or currency of the United States  
43 which at the time of payment is legal tender for the payment of  
44 public and private debts, at any place or places within or without  
45 the State, and be subject to any terms of redemption by the trust or  
46 the holders thereof, with or without premium, as the resolution or  
47 resolutions may provide. A resolution of the trust authorizing the  
48 issuance of bonds, notes or other obligations may provide that the

1 bonds, notes or other obligations be secured by a trust indenture  
2 between the trust and a trustee, vesting in the trustee any property,  
3 rights, powers and duties in trust consistent with the provisions of  
4 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-  
5 10.1 et al.) as the trust may determine.

6 d. Bonds, notes or other obligations of the trust may be sold at  
7 any price or prices and in any manner as the trust may determine.  
8 Each bond, note or other obligation shall mature and be paid not  
9 later than ~~【20】~~ 30 years from the effective date thereof, or the  
10 certified useful life of the project or projects to be financed by the  
11 bonds, whichever is less, or such shorter period of time as shall be  
12 applicable to any companion loan issued pursuant to federal law or  
13 regulation.

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

32 e. Bonds, notes or other obligations of the trust may be issued  
33 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or  
34 P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the  
35 consent of any department, division, board, bureau or agency of the  
36 State, and without any other proceedings or the happening of any  
37 other conditions or things, other than those consents, proceedings,  
38 conditions or things which are specifically required by P.L.1985,  
39 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et  
40 al.).

41 f. Bonds, notes or other obligations of the trust issued under  
42 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
43 c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the  
44 State or of any political subdivision thereof other than the trust and  
45 shall not create or constitute any indebtedness, liability or  
46 obligation of the State or any political subdivision, but all these  
47 bonds, notes and other obligations, unless funded or refunded by  
48 bonds, notes or other obligations, shall be payable solely from

1 revenues or funds pledged or available for their payment as  
2 authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
3 c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall  
4 contain on its face a statement to the effect that the trust is obligated  
5 to pay the principal thereof or the interest thereon only from its  
6 revenues, receipts or funds pledged or available for their payment  
7 as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
8 c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any  
9 political subdivision thereof, is obligated to pay the principal or  
10 interest and that neither the faith and credit nor the taxing power of  
11 the State, or any political subdivision thereof, is pledged to the  
12 payment of the principal of or the interest on the bonds, notes or  
13 other obligations.

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

26 (1) Upon the decision by the trust to issue refunding bonds,  
27 except for current refunding, and prior to the sale of those bonds,  
28 the trust shall transmit to the Joint Budget Oversight Committee, or  
29 its successor, a report that a decision has been made, reciting the  
30 basis on which the decision was made, including an estimate of the  
31 debt service savings to be achieved and the calculations upon which  
32 the trust relied when making the decision to issue refunding bonds.  
33 The report shall also disclose the intent of the trust to issue and sell  
34 the refunding bonds at public or private sale and the reasons  
35 therefor.

36 (2) The Joint Budget Oversight Committee or its successor shall  
37 have the authority to approve or disapprove the sales of refunding  
38 bonds as included in each report submitted in accordance with  
39 paragraph (1) of this subsection. The committee shall notify the  
40 trust in writing of the approval or disapproval within 30 days of  
41 receipt of the report. Should the committee not act within 30 days  
42 of receipt of the report, the trust may proceed with the sale of the  
43 refunding bonds, provided that the sale of refunding bonds shall  
44 realize not less than 3.00% net present value debt service savings.

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

1 (4) Within 30 days after the sale of the refunding bonds, the  
2 trust shall notify the committee of the result of that sale, including  
3 the prices and terms, conditions and regulations concerning the  
4 refunding bonds, the actual amount of debt service savings to be  
5 realized as a result of the sale of refunding bonds, and the intended  
6 use of the proceeds from the sale of those bonds.

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

11 h. Each issue of bonds, notes or other obligations of the trust  
12 may, if it is determined by the trust, be general obligations thereof  
13 payable out of any revenues, receipts or funds of the trust, or  
14 special obligations thereof payable out of particular revenues,  
15 receipts or funds, subject only to any agreements with the holders of  
16 bonds, notes or other obligations, and may be secured by one or  
17 more of the following:

18 (1) Pledge of revenues and other receipts to be derived from the  
19 payment of the interest on and principal of notes, bonds or other  
20 obligations issued to the trust by one or more local government  
21 units, and any other payment made to the trust pursuant to  
22 agreements with any local government units, or a pledge or  
23 assignment of any notes, bonds or other obligations of any local  
24 government unit and the rights and interest of the trust therein;

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

30 (3) Pledge of all moneys, funds, accounts, securities and other  
31 funds, including the proceeds of the bonds, notes or other  
32 obligations;

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

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

41 i. The trust shall not issue any bonds, notes or other  
42 obligations, or otherwise incur any additional indebtedness, on or  
43 after June 30, 2033.

44 j. (Deleted by amendment, P.L.1996, c.88)

45 (cf: P.L.2013, c.93, s.2)】<sup>1</sup>

1       <sup>1</sup>**[6.]** 5.<sup>1</sup> Sections 1, 3, and 4 of this act shall take effect on the  
2 180th day after the date of enactment and the remainder of this act  
3 shall take effect immediately.

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