

SENATE, No. 2573

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MAY 19, 2005

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Requires certain authorities to provide credit for paid sewer and water connection fees for certain units damaged by catastrophic events.

CURRENT VERSION OF TEXT

As introduced.



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2

1 **AN ACT** requiring municipal and county sewerage authorities and
2 utilities authorities to credit connection fees for certain catastrophic
3 events under certain circumstances, and amending and
4 supplementing P.L.1946, c.138 (C.40:14A-1 et seq.) and P.L.1957,
5 c.183 (C.40:14B-1 et seq.).

6

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

9

10 1. Section 8 of P.L.1946, c.138 (C.40:14A-8) is amended to read
11 as follows:

12 8. (a) Every sewerage authority is hereby authorized to charge and
13 collect rents, rates, fees or other charges (in this act sometimes
14 referred to as "service charges") for direct or indirect connection with,
15 or the use or services of, the sewerage system. Such service charges
16 may be charged to and collected from any person contracting for such
17 connection or use or services or from the owner or occupant, or both
18 of them, of any real property which directly or indirectly is or has been
19 connected with the system or from or on which originates or has
20 originated sewage or other wastes which directly or indirectly have
21 entered or may enter the sewerage system, and the owner of any such
22 real property shall be liable for and shall pay such service charges to
23 the sewerage authority at the time when and the place where such
24 service charges are due and payable.

25 (b) Rents, rates, fees and charges, which may be payable
26 periodically, being in the nature of use or service charges, shall as
27 nearly as the sewerage authority shall deem practicable and equitable
28 be uniform throughout the district for the same type, class and amount
29 of use or service of the sewerage system, except as permitted by
30 section 1 of P.L.1994, c.78 (C.40:14A-8.2), and may be based or
31 computed either on the consumption of water on or in connection with
32 the real property, making due allowance for commercial use of water,
33 or on the number and kind of water outlets on or in connection with
34 the real property, or on the number and kind of plumbing or sewerage
35 fixtures or facilities on or in connection with the real property, or on
36 the number of persons residing or working on or otherwise connected
37 or identified with the real property, or on the capacity of the
38 improvements on or connected with the real property, or on any other
39 factors determining the type, class and amount of use or service of the
40 sewerage system, or on any combination of any such factors, and may
41 give weight to the characteristics of the sewage and other wastes and
42 any other special matter affecting the cost of treatment and disposal
43 thereof, including chlorine demand, biochemical oxygen demand,

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

Matter underlined thus is new matter.

1 concentration of solids and chemical composition. In addition to any
2 such periodic service charges, a separate charge in the nature of a
3 connection fee or tapping fee, in respect of each connection of any
4 property with the sewerage system, may be imposed upon the owner
5 or occupant of the property so connected. Such connection charges
6 shall be uniform within each class of users, except as provided by
7 section 2 of P.L.2005, c.29 (C.40:14A-8.3) and section 2 of P.L. ____,
8 c. ____ (C. ____) (pending before the Legislature as this bill), and the
9 amount thereof shall not exceed the actual cost of the physical
10 connection, if made by the authority, plus an amount computed in the
11 following manner to represent a fair payment toward the cost of the
12 system:

13 (1) The amount representing all debt service, including but not
14 limited to sinking funds, reserve funds, the principal and interest on
15 bonds, and the amount of any loans and interest thereon, paid by the
16 sewerage authority to defray the capital cost of developing the system
17 as of the end of the immediately preceding fiscal year of the authority
18 shall be added to all capital expenditures made by the authority not
19 funded by a bond ordinance or debt for the development of the system
20 as of the end of the immediately preceding fiscal year of the authority.

21 (2) Any gifts, contributions or subsidies to the authority received
22 from, and not reimbursed or reimbursable to any federal, State, county
23 or municipal government or agency or any private person, and that
24 portion of amounts paid to the authority by a public entity under a
25 service agreement or service contract which is not repaid to the public
26 entity by the authority, shall then be subtracted.

27 (3) The remainder shall be divided by the total number of service
28 units served by the authority at the end of the immediately preceding
29 fiscal year of the authority, and the results shall then be apportioned
30 to each new connector according to the number of service units
31 attributed to that connector, to produce the connector's contribution
32 to the cost of the system. In attributing service units to each
33 connector, the estimated average daily flow of sewage for the
34 connector shall be divided by the average daily flow of sewage for the
35 average single family residence in the authority's district to produce
36 the number of service units to be attributed.

37 The connection fee shall be recomputed at the end of each fiscal
38 year of the authority, after a public hearing is held in the manner
39 prescribed in subsection (c) of this section. The revised connection fee
40 may be imposed upon those who subsequently connect in that fiscal
41 year to the system. The combination of such connection fee or tapping
42 fee and the aforesaid periodic service charges shall meet the
43 requirements of subsection (c) hereof.

44 (c) The sewerage authority shall prescribe and from time to time
45 when necessary revise a schedule of service charges, which shall
46 comply with the terms of any contract of the sewerage authority and

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1 in any event shall be such that the revenues of the sewerage authority
2 will at all times be adequate to pay all expenses of operation and
3 maintenance of the sewerage system, including reserves, insurance,
4 extensions, and replacements, and to pay punctually the principal of
5 and interest on any bonds and to maintain such reserves or sinking
6 funds therefor as may be required by the terms of any contract of the
7 sewerage authority or as may be deemed necessary or desirable by the
8 sewerage authority. Said schedule shall thus be prescribed and from
9 time to time revised by the sewerage authority after public hearing
10 thereon which shall be held by the sewerage authority at least 20 days
11 after notice of the proposed adjustment is mailed to the clerk of each
12 municipality serviced by the authority and publication of notice of the
13 proposed adjustment of the service charges and of the time and place
14 of the public hearing in at least two newspapers of general circulation
15 in the area serviced by the authority. The sewerage authority shall
16 provide evidence at the hearing showing that the proposed adjustment
17 of the service charges is necessary and reasonable, and shall provide
18 the opportunity for cross-examination of persons offering such
19 evidence, and a transcript of the hearing shall be made and a copy
20 thereof shall be available upon request to any interested party at a
21 reasonable fee. The sewerage authority shall likewise fix and determine
22 the time or times when and the place or places where such service
23 charges shall be due and payable and may require that such service
24 charges shall be paid in advance for periods of not more than one year.
25 A copy of such schedule of service charges in effect shall at all times
26 be kept on file at the principal office of the sewerage authority and
27 shall at all reasonable times be open to public inspection.

28 (d) Any county sewerage authority may establish sewerage regions
29 in portions of the district. Rents, rates, fees and charges which may
30 be payable periodically, being in the nature of use or service charges,
31 shall as nearly as the sewerage authority shall deem practicable and
32 equitable, be uniform throughout the district for the same type, class
33 and amount of use or service of the sewerage systems, except as
34 permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall
35 meet all other requirements of subsection (b) hereof.

36 (cf: P.L.2005, c.29, s.1)

37

38 2. (New section) a. For a unit damaged by a catastrophic event,
39 a county, regional or municipal sewerage authority shall provide,
40 within two years after the date of the catastrophic event, a credit for
41 the connection fee or tapping fee assessed pursuant to section 8 of
42 P.L.1946, c.138 (C.40:14A-8) for connection to the sewerage system,
43 provided that:

44 (1) the unit was damaged by a catastrophic event during
45 construction or refurbishing of the unit;

46 (2) the connection fee or tapping fee has been paid; and

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1 (3) the damaged unit is refurbished or replaced with another unit
2 and connected to the sewerage system within two years after the date
3 of the catastrophic event.

4 If the refurbishing of the damaged unit or the construction of the
5 unit replacing the damaged unit expands the sewerage system use, the
6 property owner of the refurbished unit or the newly constructed unit,
7 as applicable, shall be credited for any connection fee or tapping fee
8 previously paid for the unit and shall be assessed the difference
9 between the credit and the connection fee or tapping fee, as applicable,
10 for the new class of use.

11 b. For the purposes of this section, "catastrophic event" means a
12 fire or any declared national, State or municipal emergency or a flood
13 or other natural disaster or event which substantially affects or
14 damages a building or structure; and "unit" means any publicly or
15 privately owned real property that is a building or part of a building
16 that is connected to, or, after construction or refurbishing, is to be
17 connected to, a sewerage system, and shall include, but shall not be
18 limited to, any building or part of a building leased, operated, or
19 owned by a municipality or a school district.

20
21 3. Section 21 of P.L.1957, c.183 (C.40:14B-21) is amended to
22 read as follows:

23 21. a. Every municipal authority is hereby authorized to charge and
24 collect rents, rates, fees or other charges (in this act sometimes
25 referred to as "water service charges") for direct or indirect connection
26 with, or the use, products or services of, the water system, or for sale
27 of water or water supply services, water supply facilities or products.
28 Such water service charges may be charged to and collected from any
29 person contracting for such connection or use, products or services or
30 for such sale or from the owner or occupant, or both of them, of any
31 real property which directly or indirectly is or has been connected with
32 the water system or to which directly or indirectly has been supplied
33 or furnished such use, products or services of the water system or
34 water or water services, facilities or products, and the owner of any
35 such real property shall be liable for and shall pay such water service
36 charges to the municipal authority at the time when and place where
37 such water service charges are due and payable. Such rents, rates,
38 fees and charges shall as nearly as the municipal authority shall deem
39 practicable and equitable be uniform throughout the district for the
40 same type, class and amount of use, products or services of the water
41 system, except as permitted by section 1 of P.L.1992, c.215
42 (C.40:14B-22.2), and may be based or computed either on the
43 consumption of water on or in connection with the real property, or on
44 the number and kind of water outlets on or in connection with the real
45 property, or on the number and kind of plumbing fixtures or facilities
46 on or in connection with the real property, or on the number of

1 persons residing or working on or otherwise connected or identified
2 with the real property, or on the capacity of the improvements on or
3 connected with the real property, or on any other factors determining
4 the type, class and amount of use, products or services of the water
5 system supplied or furnished, or on any combination of such factors,
6 and may give weight to the characteristics of the water or water
7 services, facilities or products and, as to service outside the district,
8 any other matter affecting the cost of supplying or furnishing the same,
9 including the cost of installation of necessary physical properties.

10 Every municipal authority that furnishes water supply services or
11 operates water supply facilities shall establish a rate structure that
12 provides for uniform water service charges for water supply service
13 and fire protection systems.

14 No municipal authority may impose standby fees or charges for any
15 fire protection system to a residential customer served by a water
16 service line of two inches or less in diameter.

17 Nothing in this section shall preclude a municipal authority from
18 requiring separate dedicated service lines for fire protection. A
19 municipal authority may require that fire service lines be metered.
20 Nothing in this section shall alter the liability for maintenance and
21 repair of service lines which exists on the effective date of P.L.2003,
22 c.278.

23 b. In addition to any such water service charges, a separate charge
24 in the nature of a connection fee or tapping fee, in respect of each
25 connection of any property with the water system, may be imposed
26 upon the owner or occupant of the property so connected. Such
27 connection charges shall be uniform within each class of users, except
28 as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and
29 section 5 of P.L. , c. (C.) (pending before the Legislature as
30 this bill), and the amount thereof shall not exceed the actual cost of the
31 physical connection, if made by the authority, plus an amount
32 computed in the following manner to represent a fair payment toward
33 the cost of the system:

34 (1) The amount representing all debt service, including but not
35 limited to sinking funds, reserve funds, the principal and interest on
36 bonds, and the amount of any loans and interest thereon, paid by a
37 municipal authority to defray the capital cost of developing the system
38 as of the end of the immediately preceding fiscal year of the authority
39 shall be added to all capital expenditures made by the authority not
40 funded by a bond ordinance or debt for the development of the system
41 as of the end of the immediately preceding fiscal year of the authority.

42 (2) Any gifts, contributions or subsidies to the authority received
43 from, and not reimbursed or reimbursable to any federal, State, county
44 or municipal government or agency or any private person, and that
45 portion of amounts paid to the authority by a public entity under a
46 service agreement or service contract which is not repaid to the public

1 entity by the authority, shall then be subtracted.

2 (3) The remainder shall be divided by the total number of service
3 units served by the authority at the end of the immediately preceding
4 fiscal year of the authority, and the results shall then be apportioned
5 to each new connector according to the number of service units
6 attributed to that connector, to produce the connector's contribution
7 to the cost of the system. In attributing service units to each
8 connector, the estimated average daily flow of water for the connector
9 shall be divided by the average daily flow of water to the average
10 single family residence in the authority's district, to produce the
11 number of service units to be attributed.

12 c. The connection fee shall be recomputed at the end of each fiscal
13 year of the authority, after a public hearing is held in the manner
14 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The
15 revised connection fee may be imposed upon those who subsequently
16 connect in that fiscal year to the system. The combination of such
17 connection fee or tapping fee and the aforesaid water service charges
18 shall meet the requirements of section 23 of P.L.1957, c.183
19 (C.40:14B-23).

20 d. The foregoing notwithstanding, no municipal authority shall
21 impose any charges or fees in excess of the cost of water actually used
22 for any sprinkler system required to be installed in any residential
23 health care facility pursuant to the "Health Care Facilities Planning
24 Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations
25 promulgated thereunder or in any rooming or boarding house pursuant
26 to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496
27 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing
28 herein shall preclude any municipal authority from charging for the
29 actual cost of water main connection, except as provided by section 5
30 of P.L.2005, c.29 (C.40:14B-22.3) and section 5 of P.L. _____, c. _____
31 (C. _____) (pending before the Legislature as this bill).
32 (cf: P.L.2005, c.29, s.3)

33

34 4. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to
35 read as follows:

36 22. Every municipal authority is hereby authorized to charge and
37 collect rents, rates, fees or other charges (in this act sometimes
38 referred to as "sewerage service charges") for direct or indirect
39 connection with, or the use or services of, the sewerage system. Such
40 sewerage service charges may be charged to and collected from any
41 person contracting for such connection or use or services or from the
42 owner or occupant, or both of them, of any real property which
43 directly or indirectly is or has been connected with the sewerage
44 system or from or on which originates or has originated sewage or
45 other wastes which directly or indirectly have entered or may enter the
46 sewerage system, and the owner of any such real property shall be

1 liable for and shall pay such sewerage service charges to the municipal
2 authority at the time when and place where such sewerage service
3 charges are due and payable. Such rents, rates, fees and charges, being
4 in the nature of use or service charges, shall as nearly as the municipal
5 authority shall deem practicable and equitable be uniform throughout
6 the district for the same type, class and amount of use or service of the
7 sewerage system, except as permitted by section 1 of P.L.1992, c.215
8 (C.40:14B-22.2), and may be based or computed either on the
9 consumption of water on or in connection with the real property,
10 making due allowance for commercial use of water, or on the number
11 and kind of water outlets on or in connection with the real property,
12 or on the number and kind of plumbing or sewerage fixtures or
13 facilities on or in connection with the real property, or on the number
14 of persons residing or working on or otherwise connected or identified
15 with the real property, or on the capacity of the improvements on or
16 connected with the real property, or on any other factors determining
17 the type, class and amount of use or service of the sewerage system,
18 or on any combination of any such factors, and may give weight to the
19 characteristics of the sewage and other wastes and any other special
20 matter affecting the cost of treatment and disposal of the same,
21 including chlorine demand, biochemical oxygen demand, concentration
22 of solids and chemical composition, and, as to service outside the
23 district, the cost of installation of necessary physical properties.

24 In addition to any such sewerage service charges, a separate charge
25 in the nature of a connection fee or tapping fee, in respect of each
26 connection of any property with the sewerage system, may be imposed
27 upon the owner or occupant of the property so connected. Such
28 connection charges shall be uniform within each class of users, except
29 as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and
30 section 5 of P.L. , c. (C.) (pending before the Legislature as
31 this bill), and the amount thereof shall not exceed the actual cost of the
32 physical connection, if made by the authority, plus an amount
33 computed in the following manner to represent a fair payment towards
34 the cost of the system:

35 a. The amount representing all debt service, including but not
36 limited to sinking funds, reserve funds, the principal and interest on
37 bonds, and the amount of any loans and the interest thereon, paid by
38 the municipal authority to defray the capital cost of developing the
39 system as of the end of the immediately preceding fiscal year of the
40 authority shall be added to all capital expenditures made by a
41 municipal authority not funded by a bond ordinance or debt for the
42 development of the system as of the end of the immediately preceding
43 fiscal year of the authority.

44 b. Any gifts, contributions or subsidies to the authority received
45 from, and not reimbursed or reimbursable to, any federal, State,
46 county or municipal government or agency or any private person, and

1 that portion of amounts paid to the authority by a public entity under
2 a service agreement or service contract which is not repaid to the
3 public entity by the authority, shall then be subtracted.

4 c. The remainder shall be divided by the total number of service
5 units served by the authority at the end of the immediately preceding
6 fiscal year of the authority, and the results shall then be apportioned
7 to each new connector according to the number of service units
8 attributed to that connector. In attributing service units to each
9 connector, the estimated average daily flow of sewage for the
10 connector shall be divided by the average daily flow of sewage from
11 the average single family residence in the authority's district, to
12 produce the number of service units to be attributed.

13 The connection fee shall be recomputed at the end of each fiscal
14 year of the authority, after a public hearing is held in the manner
15 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The
16 revised connection fee may be imposed upon those who subsequently
17 connect in that fiscal year to the system.

18 The combination of such connection fee or tapping fee and the
19 aforesaid sewerage service charges shall meet the requirements of
20 section 23.

21 (cf: P.L.2005, c.29, s.4)

22
23 5. (New section) a. For a unit damaged by a catastrophic event,
24 a county, regional or municipal utilities authority shall provide, within
25 two years after the date of the catastrophic event, a credit for the
26 connection fee or tapping fee assessed pursuant to section 21 of
27 P.L.1957, c.183 (C.40:14B-21) for connection to the water system, or
28 a credit for the connection fee or tapping fee assessed pursuant to
29 section 22 of P.L.1957, c.183 (C.40:14B-22) for connection to the
30 sewerage system provided that:

31 (1) the unit was damaged by a catastrophic event during
32 construction or refurbishing of the unit;

33 (2) the connection fee or tapping fee has been paid; and

34 (3) the damaged unit is refurbished or replaced with another unit
35 and connected to the water system or the sewerage system, or both,
36 as the case may be, within two years after the date of the catastrophic
37 event.

38 If the refurbishing of the damaged unit or the construction of the
39 unit replacing the damaged unit expands the water system use or the
40 sewerage system use, or both, as the case may be, the property owner
41 of the refurbished unit or the newly constructed unit, as applicable,
42 shall be credited for any connection fee or tapping fee previously paid
43 for the unit and shall be assessed the difference between the credit and
44 the connection fee or tapping fee, as applicable, for the new class of
45 use.

46 b. For the purposes of this section, "catastrophic event" means a

1 fire or any declared national, State or municipal emergency or a flood
2 or other natural disaster or event which substantially affects or
3 damages a building or structure; and "unit" means any publicly or
4 privately owned real property that is a building or part of a building
5 that is connected to, or, after construction or refurbishing, is to be
6 connected to, a water system or a sewerage system, or both, as the
7 case may be, and shall include, but shall not be limited to, any building
8 or part of a building leased, operated, or owned by a municipality or
9 a school district.

10

11 6. This act shall take effect immediately.

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STATEMENT

15

16 This bill requires regional, county and municipal sewerage
17 authorities created pursuant to the "sewerage authorities law,"
18 P.L.1946, c.138 (C.40:14A-1 et seq.), and regional, county and
19 municipal utility authorities created pursuant to the "municipal and
20 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.),
21 to waive the connection fee or tapping fee assessed for new
22 connections to the sewer system or water system, or both, whenever
23 the unit has been damaged by a catastrophic event during construction
24 or refurbishing of the unit. For damaged units previously connected
25 to an authority's system and for which a connection or tapping fee was
26 previously paid, the bill requires the authority to apply a credit for
27 those previously paid fees against the connection fee or tapping fee to
28 be assessed for a reconnection with the sewerage system or the water
29 system, or both, that occurs within two years after the date of the
30 catastrophic event that damaged the unit.

31 "Catastrophic event" is defined in the bill as a fire or any declared
32 national, State or municipal emergency or a flood or other natural
33 disaster or event which substantially affects or damages a building or
34 structure, including buildings that are leased, operated or owned by a
35 municipality or a school district.