

**SENATE, No. 2004**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MAY 27, 2010

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Makes certain changes to the New Jersey Environmental Infrastructure Trust Financing Program.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning environmental infrastructure projects, and  
2 amending P.L.1985, c.334.

3

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

6

7 1. Section 6 of P.L.1985, c.334, (C.58:11B-6) is amended to  
8 read as follows:

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

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

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

**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.**

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

5 d. Bonds, notes or other obligations of the trust may be sold at  
6 any price or prices and in any manner as the trust may determine.  
7 Each bond, note or other obligation shall mature and be paid not  
8 later than 20 years from the effective date thereof, or the certified  
9 useful life of the project or projects to be financed by the bonds,  
10 whichever is less.

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

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

36 f. Bonds, notes or other obligations of the trust issued under  
37 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
38 c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the  
39 State or of any political subdivision thereof other than the trust and  
40 shall not create or constitute any indebtedness, liability or  
41 obligation of the State or any political subdivision, but all these  
42 bonds, notes and other obligations, unless funded or refunded by  
43 bonds, notes or other obligations, shall be payable solely from  
44 revenues or funds pledged or available for their payment as  
45 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.). Each bond, note and obligation shall  
47 contain on its face a statement to the effect that the trust is obligated  
48 to pay the principal thereof or the interest thereon only from its

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1 revenues, receipts or funds pledged or available for their payment  
2 as 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.), and that neither the State, nor any  
4 political subdivision thereof, is obligated to pay the principal or  
5 interest and that neither the faith and credit nor the taxing power of  
6 the State, or any political subdivision thereof, is pledged to the  
7 payment of the principal of or the interest on the bonds, notes or  
8 other obligations.

9 g. The aggregate principal amount of bonds, notes or other  
10 obligations, including subordinated indebtedness of the trust, shall  
11 not exceed ~~[\$2,700,000,000]~~ \$2,800,000,000. In computing the  
12 foregoing limitations there shall be excluded all the bonds, notes or  
13 other obligations, including subordinated indebtedness of the trust,  
14 which shall be issued for refunding purposes, whenever the  
15 refunding shall be determined to result in a 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.

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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 **【November 5, 2029】** June 30, 2031.

34 j. (Deleted by amendment, P.L.1996, c.88).  
35 (cf: P.L.2009, c.103, s.3)

36

37 2. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read  
38 as follows:

39 9. a. (1) The trust may make and contract to make loans to local  
40 government units, or to a local government unit on behalf of  
41 another local government unit, in accordance with and subject to the  
42 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.) to finance the cost of any wastewater  
44 treatment system project or water supply project, which the local  
45 government unit may lawfully undertake or acquire and for which  
46 the local government unit is authorized by law to borrow money.

47 (2) The trust may make and contract to make loans to public  
48 water utilities, or to any other person or local government unit on

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1 behalf of a public water utility, in accordance with and subject to  
2 the provisions of 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.) to finance the cost of any water supply  
4 project, which the public water utility may lawfully undertake or  
5 acquire.

6 (3) The trust may make and contract to make loans to private  
7 persons other than local government units, or to any other person or  
8 local government unit on behalf of a private person, in accordance  
9 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1  
10 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost  
11 of stormwater management systems.

12 The loans may be made subject to those terms and conditions as  
13 the trust shall determine to be consistent with the purposes thereof.  
14 Each loan by the trust and the terms and conditions thereof shall be  
15 subject to approval by the State Treasurer, and the trust shall make  
16 available to the State Treasurer all information, statistical data and  
17 reports of independent consultants or experts as the State Treasurer  
18 shall deem necessary in order to evaluate the loan. Each loan to a  
19 local government unit, public water utility or any other person shall  
20 be evidenced by notes, bonds or other obligations thereof issued to  
21 the trust. In the case of each local government unit, notes and  
22 bonds to be issued to the trust by the local government unit (1) shall  
23 be authorized and issued as provided by law for the issuance of  
24 notes and bonds by the local government unit, (2) shall be approved  
25 by the Local Finance Board in the Division of Local Government  
26 Services in the Department of Community Affairs, and (3)  
27 notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28  
28 and N.J.S.40A:2-29 or any other provisions of law to the contrary,  
29 may be sold at private sale to the trust at any price, whether or not  
30 less than par value, and shall be subject to redemption prior to  
31 maturity at any times and at any prices as the trust and local  
32 government units may agree. Each loan to a local government unit,  
33 public water utility or any other person and the notes, bonds or  
34 other obligations thereby issued shall bear interest at a rate or rates  
35 per annum as the trust and the local government unit, public water  
36 utility or any other person, as the case may be, may agree.

37 b. The trust is authorized to guarantee or contract to guarantee  
38 the payment of all or any portion of the principal and interest on  
39 bonds, notes or other obligations issued by a local government unit  
40 to finance the cost of any wastewater treatment system project or  
41 water supply project, which the local government unit may lawfully  
42 undertake or acquire and for which the local government unit is  
43 authorized by law to borrow money, and the guarantee shall  
44 constitute an obligation of the trust for the purposes of P.L.1985,  
45 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et  
46 al.). Each guarantee by the trust and the terms and conditions  
47 thereof shall be subject to approval by the State Treasurer, and the  
48 trust shall make available to the State Treasurer all information,

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1 statistical data and reports of independent consultants or experts as  
2 the State Treasurer shall deem necessary in order to evaluate the  
3 guarantee.

4 c. The trust shall not make or contract to make any loans or  
5 guarantees to local government units, public water utilities or any  
6 other person, or otherwise incur any additional indebtedness, on or  
7 after ~~【November 5, 2029】~~ June 30, 2031.

8 d. Notwithstanding any provision of P.L.1985, c.334  
9 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to  
10 the contrary, the trust may receive funds from any source or issue  
11 its bonds, notes or other obligations in any principal amounts as in  
12 the judgment of the trust shall be necessary to provide sufficient  
13 funds to finance or refinance short-term or temporary loans to local  
14 government units, public water utilities or private persons for any  
15 wastewater treatment system projects included on the project  
16 priority list for the ensuing fiscal year and eligible for approval  
17 pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water  
18 supply projects included on the project priority list for the ensuing  
19 fiscal year and eligible for approval pursuant to section 24 of  
20 P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to  
21 any other provisions of P.L.1985, c.334 or P.L.1997, c.224,  
22 including, without limitation, any administrative or legislative  
23 approvals.

24 The trust shall create and establish a special fund (hereinafter  
25 referred to as the "Interim Financing Program Fund") for the short-  
26 term or temporary loan financing or refinancing program  
27 (hereinafter referred to as the "Interim Financing Program").

28 Any short-term or temporary loans made by the trust pursuant to  
29 this subsection may only be made in advance of the anticipated  
30 loans the trust may make and contract to make under the provisions  
31 of subsection a. of this section from any source of funds anticipated  
32 to be received by the trust. The trust may make short-term or  
33 temporary loans pursuant to the Interim Financing Program to any  
34 one or more of the project sponsors, for the respective projects  
35 thereof, identified in the interim financing project priority list  
36 (hereinafter referred to as the "Interim Financing Program  
37 Eligibility List") in the form provided to the Legislature by the  
38 Commissioner of Environmental Protection.

39 Incremental revisions or supplements to the Interim Financing  
40 Program Eligibility List may be submitted to the Legislature at any  
41 time between January 15th and May 15th of each year.

42 The Interim Financing Program Eligibility List, including any  
43 revision thereof or supplement thereto, shall be submitted to the  
44 Legislature on or before June 30 of each year on a day when both  
45 Houses are meeting. The President of the Senate and the Speaker of  
46 the General Assembly shall cause the date of submission to be  
47 entered upon the Senate Journal and the Minutes of the General  
48 Assembly, respectively. Any environmental infrastructure project or

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1 the project sponsor thereof not identified in the Interim Financing  
2 Program Eligibility List shall not be eligible for a short-term or  
3 temporary loan from the Interim Financing Program Fund.

4 (cf: P.L.2009, c.103, s.4)

5

6 3. This act shall take effect immediately.

7

8

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**STATEMENT**

10

11 This bill would increase the statutory debt ceiling for the New  
12 Jersey Environmental Infrastructure Trust from \$2.7 billion to \$2.8  
13 billion. This bill also extends the statutory date after which the  
14 New Jersey Environmental Infrastructure Trust may not incur any  
15 additional indebtedness an additional 20 months to June 30, 2031.