

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2694

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED OCTOBER 22, 2018

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Co-Sponsored by:

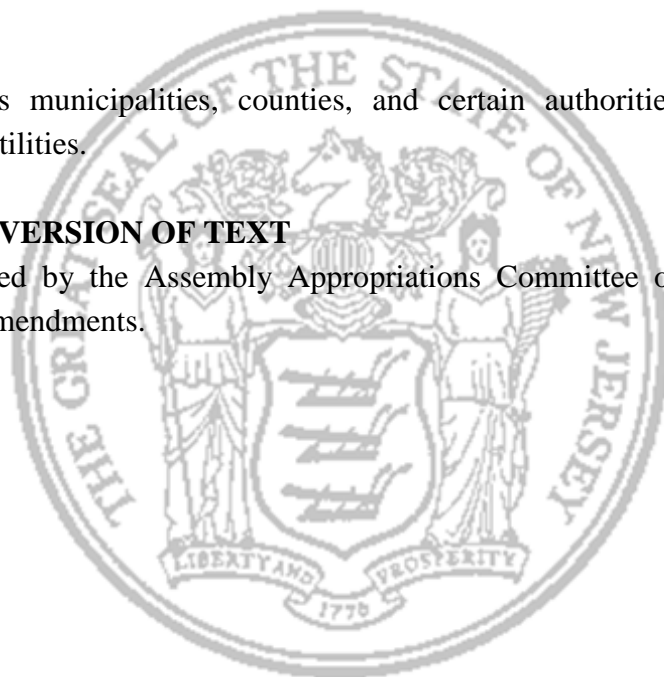
Assemblymen Karabinchak, Mukherji, Assemblywoman Reynolds-Jackson, Assemblymen Caputo and Calabrese

SYNOPSIS

Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 28, 2019, with amendments.



(Sponsorship Updated As Of: 2/1/2019)

1 **AN ACT** concerning stormwater utilities, supplementing Title 40A
2 of the New Jersey Statutes, and amending various parts of the
3 statutory law.

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

7
8 1. (New section) Sections 1 through ¹~~17~~ 18 of
9 P.L. , c. (C.) (pending before the Legislature as this bill)
10 shall be known and may be cited as the “Clean Stormwater and
11 Flood Reduction Act.”

12
13 2. (New section) a. The Legislature finds and declares that:

14 (1) The State of New Jersey faces an extensive set of problems
15 due to inadequate stormwater infrastructure and management, and
16 these problems directly affect the health, safety, economic well-
17 being, and quality of life of New Jersey residents.

18 (2) When storms occur, rainwater runs off of impervious
19 surfaces such as roads, roofs, and parking lots, and into stormwater
20 management systems and waterways. This stormwater carries with
21 it oil, pesticides, other chemicals, sediments, and bacteria that may
22 contaminate State waters, potentially making them unsafe for
23 drinking, fishing, and recreational purposes. It is estimated that up
24 to 60 percent of the State’s existing water pollution is attributable to
25 stormwater and nonpoint sources of pollution.

26 (3) Additionally, if a stormwater management system is not in
27 place or is not able to adequately absorb, capture, or convey
28 stormwater, then runoff in large volume and force may cause
29 flooding and damage to homes, businesses, and property. A
30 projected increase in sea level rise and more frequent and severe
31 storms are expected to only increase flooding.

32 (4) New Jersey, in particular, is prone to pollution and flooding
33 problems, with over 10 percent of its land area covered with
34 impervious surfaces. These problems are particularly acute in the
35 21 urban New Jersey municipalities that have combined sewer
36 systems, which routinely overflow and discharge untreated
37 wastewater and stormwater into the State’s waters, contributing to
38 water pollution and impairing the use and enjoyment of those
39 waters.

40 (5) Stormwater infrastructure in New Jersey currently lacks a
41 dedicated source of funding and, consequently, receives few
42 upgrades and little maintenance once built. In some instances,
43 stormwater infrastructure goes unmonitored and unattended until it
44 breaks down; in other instances, it is simply inadequate to manage
45 stormwater.

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:

¹ Assembly AAP committee amendments adopted January 28, 2019.

1 (6) Establishment of local stormwater utilities presents an
 2 effective management strategy to address stormwater issues.
 3 Currently, there are more than 1,500 stormwater utilities operating
 4 in 40 states across the country and the District of Columbia.
 5 Stormwater utilities are often authorized to assess fair and equitable
 6 fees to fund the development, improvement, and management of
 7 stormwater infrastructure.

8 b. The Legislature therefore determines that it is in the public
 9 interest to authorize the establishment of local stormwater utilities,
 10 and to allow those utilities to assess fees that are based on a fair
 11 and equitable approximation of the proportionate contribution of
 12 stormwater runoff from any real property¹, in order to finance the
 13 improvement of the State's stormwater infrastructure, better control
 14 water pollution and flooding, restore and enhance the quality of the
 15 State's waters, and protect the public health, safety, and welfare and
 16 the environment.

17 The Legislature further determines that green infrastructure is an
 18 effective approach to managing stormwater because it reduces and
 19 treats stormwater at its source while delivering other environmental,
 20 social, and economic benefits. The use of green infrastructure
 21 should be encouraged and, where appropriate, required to help
 22 decrease pollutant loads and runoff volumes to receiving waters.
 23

24 3. (New section) As used in sections 1 through ~~'[17]~~ 18¹ of
 25 P.L. , c. (C.) (pending before the Legislature as this bill):

26 "Authority" means a county or municipal sewerage authority
 27 established pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a
 28 county or municipal utilities authority established pursuant to
 29 P.L.1957, c.183 (C.40:14B-1 et seq.), or a county improvement
 30 authority established pursuant to P.L.1960, c.183 (C.40:37A-44 et
 31 seq.).

32 "Department" means the Department of Environmental
 33 Protection.

34 "Division" means the Division of Local Government Services in
 35 the Department of Community Affairs.

36 "Green infrastructure" means a stormwater management system
 37 that treats stormwater runoff through infiltration into subsoil, treats
 38 stormwater runoff through filtration by vegetation or soil, or stores
 39 stormwater runoff for reuse.

40 "New Jersey Pollutant Discharge Elimination System permit"
 41 means any permit issued by the department pursuant to section 6 of
 42 P.L.1977, c.74 (C.58:10A-6).

43 "Stormwater" means water resulting from precipitation,
 44 including rain and snow, which runs off the land's surface, is
 45 transmitted to the subsurface, or is captured by separate storm
 46 sewers or other sewage or drainage facilities, or conveyed by snow
 47 removal equipment.

48 "Stormwater management system" means any equipment, plant,
 49 structures, machinery, apparatus, management practices, design

1 practices, planning activities, or land, or any combination thereof,
2 acquired, used, constructed, implemented, or operated to convey
3 stormwater, control or reduce stormwater runoff and associated
4 pollutants or flooding, induce or control the infiltration of
5 groundwater recharge of stormwater, or eliminate illicit or illegal
6 nonstormwater discharges into stormwater conveyances.

7
8 4. (New section) a. The governing body of any county or
9 municipality may, by resolution or ordinance, as appropriate, establish
10 a stormwater utility for the purposes of acquiring, constructing,
11 improving, maintaining, and operating stormwater management
12 systems in the county or municipality, consistent with State and
13 federal laws, rules, and regulations.

14 b. Any stormwater utility that is established pursuant to this
15 section shall be considered a “municipal public utility” for the
16 purposes of Title 40A of the New Jersey Statutes. Notwithstanding
17 any other law to the contrary, a county or municipality may
18 establish a stormwater utility as a new department within the county
19 or municipality, or as an operation of an existing department or
20 departments having responsibility and control over stormwater
21 management systems or portions thereof.

22 c. A county or municipality that establishes a stormwater
23 utility pursuant to this section shall submit a copy of the resolution
24 or ordinance adopted pursuant to subsection a. of this section to the
25 Department of Environmental Protection and the Division of Local
26 Government Services in the Department of Community Affairs.
27 The establishment of a stormwater utility pursuant to this section
28 shall not be construed to modify or otherwise affect a county or
29 municipality’s obligations under any New Jersey Pollutant
30 Discharge Elimination System permit or any other rule, regulation,
31 order, or permit issued by the department.

32
33 5. (New section) a. The governing body or bodies of one or
34 more municipalities that have established a municipal sewerage
35 authority pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or a
36 municipal utilities authority pursuant to P.L.1957, c.183 (C.40:14B-
37 1 et seq.) may, by ordinance, or parallel ordinances, as appropriate,
38 request that the authority establish a stormwater utility for the purposes
39 of acquiring, constructing, improving, maintaining, and operating
40 stormwater management systems in the municipality or municipalities,
41 consistent with State and federal laws, rules, and regulations.

42 b. Upon the request of a municipality or municipalities, an
43 authority may establish a stormwater utility pursuant to a service
44 agreement between the authority and the requesting municipality or
45 municipalities, in accordance with the provisions of
46 P.L. , c. (C.) (pending before the Legislature as this bill)
47 and the “Local Authorities Fiscal Control Law,”
48 P.L.1983, c.313 (C.40A:5A-1 et seq.). The agreement shall set forth
49 the powers, duties, and functions of the stormwater utility and any

1 other matters that may be necessary for the agreement. A
2 stormwater utility established pursuant to this section shall be
3 considered a separate operation of the authority to be budgeted and
4 accounted for separately.

5 c. An authority that establishes a stormwater utility pursuant to
6 this section shall submit a copy of the service agreement to the
7 Department of Environmental Protection and the Division of Local
8 Government Services in the Department of Community Affairs. A
9 municipality that contractually delegates to an authority any of its
10 responsibilities under any New Jersey Pollutant Discharge
11 Elimination System permit or any other rule, regulation, order, or
12 permit issued by the department shall remain responsible for
13 compliance with any such rules, regulations, orders, or permits if
14 the authority fails to implement the requirements thereof.

15
16 6. (New section) a. The governing body of any county that
17 has established a county sewerage authority pursuant to P.L.1946,
18 c.138 (C.40:14A-1 et seq.), a county utilities authority pursuant to
19 P.L.1957, c.183 (C.40:14B-1 et seq.), or a county improvement
20 authority pursuant to P.L.1960, c.183 (C.40:37A-44 et seq.) may, by
21 resolution, request that the authority establish a stormwater utility for
22 the purposes of acquiring, constructing, improving, maintaining, and
23 operating stormwater management systems in the county, consistent
24 with State and federal laws, rules, and regulations.

25 b. Upon the request of a county, an authority may establish a
26 stormwater utility pursuant to a service agreement between the
27 authority and the requesting county, in accordance with the provisions
28 of P.L. , c. (C.) (pending before the Legislature as this bill)
29 and the “Local Authorities Fiscal Control Law,”
30 P.L.1983, c.313 (C.40A:5A-1 et seq.). The agreement shall set forth
31 the powers, duties, and functions of the stormwater utility and any
32 other matters that may be necessary for the agreement. A
33 stormwater utility established pursuant to this section shall be
34 considered a separate operation of the authority to be budgeted and
35 accounted for separately.

36 c. An authority that establishes a stormwater utility pursuant to
37 this section shall submit a copy of the service agreement to the
38 Department of Environmental Protection and the Division of Local
39 Government Services in the Department of Community Affairs. A
40 county that contractually delegates to an authority any of its
41 responsibilities under any New Jersey Pollutant Discharge
42 Elimination System permit or any other rule, regulation, order, or
43 permit issued by the department shall remain responsible for
44 compliance with any such rules, regulations, orders, or permits if
45 the authority fails to implement the requirements thereof.

46
47 7. (New section) a. The governing bodies of any two or
48 more municipalities may, pursuant to the provisions of P.L.2007,
49 c.63 (C.40A:65-1 et al.), enter into a shared services agreement to

1 provide for the construction, improvement, maintenance, or
2 operation of stormwater management systems in the municipalities,
3 consistent with State and federal laws, rules, and regulations.

4 b. The governing body or bodies of one or more municipalities,
5 and the county in which the municipality or municipalities are
6 located may, pursuant to the provisions of P.L.2007, c.63
7 (C.40A:65-1 et al.), enter into a shared services agreement to
8 provide for the construction, improvement, maintenance, or
9 operation of stormwater management systems in the municipalities,
10 consistent with State and federal laws, rules, and regulations.

11 c. Any county or municipality that enters into a shared services
12 agreement pursuant to this section shall submit a copy of the
13 agreement to the Department of Environmental Protection and the
14 Division of Local Government Services in the Department of
15 Community Affairs.

16
17 8. (New section) a. Any county, municipality, or authority
18 that establishes a stormwater utility pursuant to P.L. ,
19 c. (C.) (pending before the Legislature as this bill) may
20 charge and collect reasonable fees and other charges to recover the
21 stormwater utility's costs for stormwater management. These fees
22 and other charges may be charged to and collected from the owner
23 or occupant, or both, of any real property from which originates
24 stormwater runoff which directly or indirectly enters the stormwater
25 management system or the waters of the State. The owner of any
26 such real property shall be liable for and shall pay such fees and
27 charges to the stormwater utility at the time when and place where
28 the fees and charges are due and payable.

29 b. Any fee or other charge that a county, municipality, or
30 authority charges and collects pursuant to this section shall be based
31 on a fair and equitable approximation of the proportionate
32 contribution of stormwater runoff from a real property.

33 c. In establishing fees and other charges pursuant to this
34 section, a county, municipality, or authority shall provide for:

35 (1) a partial fee reduction in the form of a credit for any
36 property ¹that maintains and operates a stormwater management
37 system that complies with the State and local stormwater
38 management standards that were in place at the time the system was
39 approved and that effectively reduces, retains, or treats stormwater
40 onsite;

41 (2) an additional partial fee reduction in the form of a credit for
42 any property¹ which has installed and is operating and maintaining
43 'current'¹ stormwater best management practices that reduce, retain,
44 or treat stormwater onsite and which are approved by the county,
45 municipality, or authority;

46 ¹**[(2)] (3)**¹ an additional partial fee reduction in the form of a
47 credit for any property which has installed and is operating and
48 maintaining green infrastructure that reduces, retains, or treats
49 stormwater onsite and which exceeds any requirements for green

1 infrastructure that may be applicable to that property under any rule
2 or regulation adopted by the Department of Environmental
3 Protection or the local stormwater control ordinance; and

4 ¹~~[(3)]~~ ⁽⁴⁾¹ an exemption from fees and other charges for land
5 actively devoted to agricultural or horticultural use that is valued,
6 assessed, and taxed pursuant to the “Farmland Assessment Act of
7 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

8 d. Any county, municipality, or authority that collects fees and
9 charges pursuant to this section shall remit to the State Treasurer
10 annually an amount equal to five percent of all such fees and
11 charges collected, or \$50,000, whichever amount is less. The State
12 Treasurer shall deposit these moneys into the “Clean Stormwater
13 and Flood Reduction Fund” established pursuant to section ¹~~[16]~~
14 ¹⁷¹ of P.L. , c. (C.) (pending before the Legislature as this
15 bill).

16 e. Except as provided in section 5 of P.L.1983, c.111
17 (C.40A:4-35.1) or ¹~~[Section]~~ section¹ 1 of P.L.2004, c.87
18 (C.40A:5A-12.1), as applicable, a county, municipality, or authority
19 shall only use fees and other charges collected pursuant to this
20 section to pay for or recover all or a portion of the cost of the
21 following:

22 (1) initial establishment of a stormwater utility pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 and ongoing related administrative expenses;

25 (2) capital expenditures, including planning, design,
26 engineering, acquisition, construction, and improvement of a
27 stormwater management system;

28 (3) operation and maintenance expenditures of a stormwater
29 management system;

30 (4) development and implementation of an asset management
31 program for a stormwater management system;

32 (5) development and implementation of a stormwater
33 management plan and stormwater control ordinances pursuant to
34 section 1 of P.L.1981, c.32 (C.40:55D-93);

35 (6) any action required pursuant to any New Jersey Pollutant
36 Discharge Elimination System permit;

37 (7) development and implementation of any long-term control
38 plan to mitigate combined sewer overflows pursuant to State or
39 federal law, rule, regulation, permit, or consent decree;

40 (8) monitoring, inspection, and enforcement activities to carry
41 out the purposes of P.L. , c. (C.) (pending before the
42 Legislature as this bill);

43 (9) public education and outreach related to stormwater
44 management; and

45 (10) any other purpose related to stormwater management as
46 may be authorized by the department, the Division of Local
47 Government Services in the Department of Community Affairs, or
48 the Local Finance Board pursuant to rules, regulations, or permits.

1 f. In establishing fees and other charges and appropriate credits
2 pursuant to this section, a county, municipality, or authority shall
3 consult the guidance manual developed pursuant to section ¹[15]
4 16¹ of P.L. , c. (C.) (pending before the Legislature as this
5 bill), and other best practice guidance manuals published by
6 industry organizations.

7
8 9. (New section) In the event that a stormwater utility fee or
9 charge of any county, municipality, or authority with regard to any
10 parcel of real property is not paid when due:

11 a. interest shall accrue and be due to the county or authority on
12 the unpaid balance at the rate of one and one half percent per month
13 until such fees and charges, and the interest thereon, shall be fully
14 paid to the county or authority; interest shall accrue and be due to
15 the municipality on the unpaid balance at a rate not to exceed that
16 permitted under R.S.54:4-67;

17 b. the unpaid balance thereof and all interest accruing thereon
18 shall be a lien on such parcel enforced in the same manner as
19 delinquent property taxes and municipal charges. Such lien shall be
20 superior and paramount to the interest in such parcel of any owner,
21 lessee, tenant, mortgagee, or other person except the lien of State
22 taxes and property taxes and shall be on a parity with and deemed
23 equal to the lien on such parcel of State taxes and property taxes;
24 and

25 c. the unpaid balance thereof and all interest accrued thereon,
26 together with attorneys' fees and costs, may also be recovered by
27 the county, municipality, or authority in a civil action, but not in
28 lieu of enforcement as a delinquent municipal charge.

29
30 10. (New section) A county, municipality, or authority that
31 establishes a stormwater utility pursuant to P.L. , c. (C.)
32 (pending before the Legislature as this bill) may provide, by
33 ordinance or resolution, as appropriate, at one time, or from time to
34 time, for the issuance of bonds for the purpose of raising funds to
35 pay the cost of any part of the stormwater management system. The
36 bonds shall be issued pursuant to each entity's respective authority
37 under the "Local Bond Law," N.J.S.40A:2-1 et seq., P.L.1946, c.138
38 (C.40:14A-1 et seq.), P.L.1957, c.183 (C.40:14B-1 et seq.), P.L.1960,
39 c.183 (C.40:37A-44 et seq.), or any other applicable law.

40
41 11. (New section) a. A county, municipality, or authority that
42 establishes a stormwater utility pursuant to P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall, within one year
44 after establishment of the utility, and each year thereafter, prepare
45 and submit to the Division of Local Government Services in the
46 Department of Community Affairs and the Department of
47 Environmental Protection a report in the form and manner
48 determined by the department and the division pursuant to

1 subsection b. of this section. Each county, municipality, or
2 authority shall post the annual report on its Internet website.

3 b. Within 18 months after the effective date of this section, the
4 division, in consultation with the department, shall adopt, pursuant
5 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
6 1 et seq.), rules and regulations outlining the substantive
7 requirements for, and the form and manner of, the annual report
8 required pursuant to subsection a. of this section. The annual report
9 shall include, but need not be limited to, information on:

10 (1) the stormwater utility’s service area;

11 (2) the schedule of fees, other charges, and credits that the
12 county, municipality, or authority has established;

13 (3) the number of properties subject to the stormwater utility’s
14 fees and other charges, and the number of properties of each land
15 use type, including but not limited to residential, commercial, and
16 industrial, that have been granted credits or exemptions from the
17 fee, and the cumulative value of credits that have been granted to
18 properties of each land use type;

19 (4) the total revenues from stormwater utility fees and other
20 charges collected by the county, municipality, or authority;

21 (5) the percentage and amount of revenues from fees and other
22 charges spent on each of the purposes authorized in subsection e. of
23 section 8 of P.L. , c. (C.) (pending before the Legislature as
24 this bill); and

25 (6) all stormwater management projects implemented in the
26 previous fiscal year.

27
28 12. (New section) a. A county, municipality, or authority that
29 establishes a stormwater utility pursuant to P.L. , c. (C.)
30 (pending before the Legislature as this bill) may acquire by gift,
31 grant, purchase, or condemnation, or in any other lawful manner,
32 any privately-owned stormwater management system, or any real
33 property necessary for the construction, improvement, operation, or
34 maintenance of a stormwater management system.

35 b. If a county, municipality, or authority requires any payment
36 as a condition of, or in connection with, assuming ownership,
37 operation, or maintenance of any privately-owned stormwater
38 management system, the payment shall not exceed the costs
39 attributable to the ownership, operation, or maintenance of that
40 stormwater management system.

41
42 ¹13. (New section) a. Notwithstanding the provisions of
43 section 12 of P.L. , c. (C.) (pending before the Legislature
44 as this bill), the owner of a stormwater management system that
45 complies with the State and local stormwater management standards
46 that were in place at the time the system was approved may retain
47 ownership and responsibility for the operation and maintenance of
48 the system, or offer to dedicate the system to the county,
49 municipality, or authority. The county, municipality, or authority

1 may accept the dedication of, and assume operation and
2 maintenance responsibility for, the stormwater management system.

3 b. Any person who dedicates a stormwater management system
4 to a county, municipality, or authority pursuant to this section shall
5 still be liable for paying any applicable stormwater utility fee
6 imposed pursuant to section 8 of P.L. , c. (C.) (pending
7 before the Legislature as this bill).¹

8
9 ¹**[13.] 14.**¹ (New section) A county, municipality, or
10 authority that establishes a stormwater utility pursuant to
11 P.L. , c. (C.) (pending before the Legislature as this bill)
12 may, pursuant to the “Local Public Contracts Law,” P.L.1971, c.198
13 (C.40A:11-1 et seq.), enter into a contract with a private entity for
14 the planning, design, engineering, construction, improvement,
15 maintenance, and operation of a stormwater management system.

16
17 ¹**[14.] 15.**¹ (New section) Each county, municipality, and
18 authority shall adopt rules and regulations requiring that not less
19 than the prevailing wage rate be paid to workers employed in the
20 performance of any construction contract undertaken in connection
21 with financial assistance provided for the construction of a
22 stormwater management system under P.L. , c. (C.)
23 (pending before the Legislature as this bill). The prevailing wage
24 rate shall be the rate determined by the Commissioner of Labor
25 pursuant to the provisions of P.L.1963, c.150 (C.34:11-
26 56.25 et seq.).

27 For the purposes of this section, “financial assistance” means any
28 loan, bond, loan guarantee, grant, incentive, tax exemption, or other
29 financial assistance approved, funded, authorized, administered, or
30 provided by the municipality, county, or authority in connection
31 with the construction of a stormwater management system.

32
33 ¹**[15.] 16.**¹ (New section) a. Within 18 months after the
34 effective date of this section, the Department of Environmental
35 Protection, in consultation with the Board of Public Utilities, the
36 Division of Local Government Services in the Department of
37 Community Affairs, and stakeholders as the department deems
38 appropriate, shall develop a stormwater utility guidance manual.
39 The department shall periodically update the guidance manual as
40 the department deems appropriate. The guidance manual shall
41 include, but need not be limited to:

42 (1) technical assistance for counties, municipalities, and
43 authorities seeking to establish a stormwater utility pursuant to
44 P.L. , c. (C.) (pending before the Legislature as this bill);

45 (2) factors for counties, municipalities, and authorities to
46 consider when establishing and revising stormwater utility fees and
47 other charges and appropriate credits;

48 (3) information on how to develop an asset management
49 program for a stormwater management system; and

1 (4) information on how counties, municipalities, and authorities
2 can conduct public education and outreach related to stormwater
3 management.

4 b. Development of the stormwater utility guidance manual, and
5 any updates thereto, shall not be subject to the requirements and
6 provisions of the “Administrative Procedure Act,” P.L.1968, c.410
7 (C.52:14B-1 et seq.).
8

9 ¹**[16.] 17.**¹ (New section) a. There is established in the
10 General Fund a special nonlapsing account to be known as the
11 “Clean Stormwater and Flood Reduction Fund.” The State
12 Treasurer shall credit to this account all moneys remitted to the
13 State Treasurer by counties, municipalities, and authorities pursuant
14 to subsection d. of section 8 of P.L. , c. (C.) (pending before
15 the Legislature as this bill). Pending the use thereof, moneys
16 deposited in the fund may be invested or reinvested in such
17 securities as are approved by the State Treasurer. Interest or other
18 income earned on moneys deposited into the fund shall be credited
19 to the fund for use as set forth in subsection b. of this section.

20 b. Moneys deposited in the “Clean Stormwater and Flood
21 Reduction Fund” are specifically dedicated and shall be used by the
22 Department of Environmental Protection only to fund planning,
23 implementation, and coordination activities related to stormwater
24 utilities in the State, water quality monitoring and assessment, point
25 and non-point source water pollution reduction projects,
26 implementation of the department’s stormwater management
27 program, and a public education and outreach program relating to
28 stormwater management.
29

30 ¹**[17.] 18.**¹ (New section) The Department of Environmental
31 Protection, the Division of Local Government Services in the
32 Department of Community Affairs, and the Local Finance Board
33 may adopt, pursuant to the "Administrative Procedure Act,"
34 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
35 necessary for the implementation of P.L. , c. (C.) (pending
36 before the Legislature as this bill).
37

38 ¹**[18.] 19.**¹ Section 1 of P.L.2017, c.290 (C.40:14A-4.2) is
39 amended to read as follows:

40 1. a. Notwithstanding the provisions of any other law to the
41 contrary, the budget of ¹**[every]** ¹**a**¹ regional sewerage authority
42 ¹**that was**¹ created pursuant to the provisions of P.L.1946, c.138
43 (C.40:14A-1 et seq.) ¹**, and that is located in a county of the first**
44 **class with a population of over 600,000 and a population density of**
45 **over 10,000 persons per square mile according to the latest federal**
46 **decennial census**¹ shall be subject to the following provisions:

47 (1) (a) The percentage of growth in the fee-funded
48 appropriations in the annual budget of a regional sewerage authority

1 shall not exceed two percent per year; and the amount billed to
2 customers of the authority, or the amount billed to a local unit for
3 its proportional share of the authority's expenses, as the case may
4 be, shall not exceed that amount billed in the previous budget year
5 to each customer or local unit, as the case may be, by more than two
6 percent for a similar amount of use or service of the sewerage
7 system.

8 (b) A regional sewerage authority may add to the allowable
9 growth in fee-funded appropriations in any one of the next three
10 succeeding years, the amount of the difference between the
11 maximum allowable increase in fee-funded appropriations for the
12 current budget year pursuant to subparagraph (a) of this paragraph
13 and the actual amount of fee-funded appropriations for the current
14 budget year.

15 (2) The percentage of growth in the fee-funded appropriations in
16 the annual budget of a regional sewerage authority shall be
17 determined without consideration of any amounts appropriated by
18 the authority for:

19 (a) capital expenditures, including payment of principal or
20 interest on bonds authorized or issued pursuant to the "sewerage
21 authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.);

22 (b) increases in pension contributions and accrued liability for
23 pension contributions in excess of two percent over those
24 expenditures for the previous budget year ;

25 (c) increases in health care costs equal to that portion of the
26 actual increase in total health costs for the budget year that is in
27 excess of two percent of total health care costs in the previous
28 budget year, but is not in excess of the product of the total health
29 care costs in the prior year and the average percentage increase of
30 the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et
31 seq.), as annually determined by the Division of Pensions and
32 Benefits in the Department of the Treasury;

33 (d) increases in energy cost expenditures in excess of two
34 percent over those expenditures for the previous budget year;

35 (e) extraordinary costs that are directly related to an emergency;
36 **[and]**

37 (f) expenditures for the cost of services mandated by any order
38 of court, by any federal or State statute, or by administrative rule,
39 directive, order, permit, or other legally binding device issued by a
40 State agency which identified the cost as a mandated expenditure on
41 certification to the Local Finance Board by the State agency ; and

42 (g) costs associated with the establishment of a stormwater
43 utility pursuant to P.L. , c. (C.) (pending before the
44 Legislature as this bill) or for any of the purposes authorized in
45 subsection e. of section 8 of P.L. , c. (C.) (pending before
46 the Legislature as this bill).

47 (3) Notwithstanding the limitations imposed by paragraph (1) of
48 this **[section]** subsection, a regional sewerage authority may apply
49 to the Local Finance Board for a waiver to increase its rents, rates,

1 fees, and charges to levels sufficient to compensate for loss of
2 revenues due to reductions in the use or service of the sewerage
3 system.

4 (4) Notwithstanding the limitations imposed by paragraph (1) of
5 this subsection, the percentage of growth in the increase of the
6 rents, rates, fees, and charges of a regional sewerage authority shall
7 be determined without consideration of any amounts required to be
8 raised for the purposes set forth in subparagraph (g) of paragraph
9 (2) of this subsection.

10 As used in this section, "emergency" shall mean any purpose
11 which is not foreseen at the time of the adoption of the annual
12 budget, or for which adequate provision was not made therein, to
13 meet a pressing need for public expenditure to protect or promote
14 the public health, safety, morals, or welfare.

15 b. After the budget of a regional sewerage authority ¹that is
16 subject to the provisions of subsection a. of this section¹ has been
17 approved by the members of the regional sewerage authority, the
18 budget shall be forwarded to the Director of the Division of Local
19 Government Services for review and approval.

20 The director shall review the budget to ensure that the budget
21 conforms with the requirements of subsection a. of this section and
22 the "Local Authorities Fiscal Control Law,"
23 P.L.1983, c.313 (C.40A:5A-1 et seq.), and that the budgeted
24 expenditures are reasonable in cost and necessary for the
25 performance of the regional sewerage authority.

26 If the director determines that the budget meets the requirements
27 of this subsection, the director shall approve the budget. If the
28 director does not approve the budget, the director shall return the
29 budget to the members of the regional sewerage authority with
30 written information concerning the reasons for the disapproval of
31 the budget.

32 To the extent that the provisions of subsection a. of this section
33 conflict with the provisions of the "Local Authorities Fiscal Control
34 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), subsection a. of this
35 section shall take precedence.

36 (cf: P.L.2017, c.290, s.1)

37

38 ¹**【19.】 20.**¹ Section 5 of P.L.1983, c.111 (C.40A:4-35.1) is
39 amended to read as follows:

40 5. To the extent there is available surplus revenue collected by
41 a municipality pursuant to chapter 62 of Title 40 of the Revised
42 Statutes for supplying a utility service which is regulated by the
43 Board of Public Utilities pursuant to subsection d. of N.J.S.40A:31-
44 23 , or to the extent there is available surplus revenue collected by a
45 county or municipality from a stormwater utility established
46 pursuant to P.L. , c. (C.) (pending before the Legislature as
47 this bill), an amount not to exceed **【5%】** five percent of the annual
48 costs of operation of the utility may be transferred annually from
49 the accounts of the municipal utility or county utility , as

1 appropriate, and included in the local budget pursuant to
2 N.J.S.40A:4-35.
3 (cf: P.L.1989, c.109, s.2)
4

5 ¹~~20.~~ 21.¹ Section 1 of P.L.1999, c.440 (C.40A:11-4.1) is
6 amended to read as follows:

7 1. Notwithstanding the provisions of any law, rule , or
8 regulation to the contrary, competitive contracting may be used by
9 local contracting units in lieu of public bidding for procurement of
10 specialized goods and services the price of which exceeds the bid
11 threshold, for the following purposes:

12 a. The purchase or licensing of proprietary computer software
13 designed for contracting unit purposes, which may include
14 hardware intended for use with the proprietary software. This
15 subsection shall not be utilized for the purpose of acquiring general
16 purpose computer hardware or software;

17 b. The hiring of a for-profit entity or a not-for-profit entity
18 incorporated under Title 15A of the New Jersey Statutes for the
19 purpose of:

20 (1) the operation and management of a wastewater treatment
21 system , a stormwater management system, or a water supply or
22 distribution facility of the type described in subsection (37) of
23 section 15 of P.L.1971, c.198 (C.40A:11-15), provided that
24 competitive contracting shall not be used as a means of awarding
25 contracts pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and
26 P.L.1985, c.72 (C.58:27-1 et al.);

27 (2) the operation, management or administration of recreation or
28 social service facilities or programs, which shall not include the
29 administration of benefits under the Work First New Jersey
30 program established pursuant to P.L.1997, c.38 (C.44:10-55 et
31 seq.), or under General Assistance;

32 (3) the operation, management or administration of data
33 processing services; or

34 (4) the operation and management of a county hospital pursuant
35 to the "Local Hospital Authority Law," P.L.2006, c.46 (C.30:9-
36 23.15 et al.);

37 c. (Deleted by amendment, P.L.2009, c.4).

38 d. Homemaker--home health services;

39 e. Laboratory testing services;

40 f. Emergency medical services;

41 g. Contracted food services;

42 h. Performance of patient care services by contracted medical
43 staff at county hospitals, correctional facilities and long-term care
44 facilities;

45 i. At the option of the governing body of the contracting unit,
46 any good or service that is exempt from bidding pursuant to section
47 5 of P.L.1971, c.198 (C.40A:11-5);

48 j. Concessions;

1 k. The operation, management or administration of other
2 services, with the approval of the Director of the Division of Local
3 Government Services;

4 l. Maintenance, custodial, and groundskeeping services;

5 m. Consulting services;

6 n. Emergency medical billing services;

7 o. Property appraisal services;

8 p. Reassessment or revaluation services;

9 q. Grant writing services;

10 r. Animal control services.

11 Any purpose included herein shall not be considered by a
12 contracting unit as an extraordinary unspecifiable service pursuant
13 to subparagraph (ii) of paragraph (a) of subsection (1) of section 5
14 of P.L.1971, c.198 (C.40A:11-5).

15 As used in this section, "stormwater management system" means
16 the same as that term is defined in section 3 of P.L. , c. (C.)
17 (pending before the Legislature as this bill).
18 (cf: P.L.2016, c.55, s.9)

19
20 ¹~~21.~~ ^{22.} Section 15 of P.L.1971, c.198 (C.40A:11-15) is
21 amended to read as follows:

22 15. All contracts for the provision or performance of goods or
23 services shall be awarded for a period not to exceed 24 consecutive
24 months, except that contracts for professional services pursuant to
25 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
26 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
27 exceed 12 consecutive months. Contracts may be awarded for
28 longer periods of time as follows:

29 (1) Supplying of:

30 (a) (Deleted by amendment, P.L.1996, c.113.)

31 (b) (Deleted by amendment, P.L.1996, c.113.)

32 (c) Thermal energy produced by a cogeneration facility, for use
33 for heating or air conditioning or both, for any term not exceeding
34 40 years, when the contract is approved by the Board of Public
35 Utilities. For the purposes of this paragraph, "cogeneration" means
36 the simultaneous production in one facility of electric power and
37 other forms of useful energy such as heating or process steam;

38 (2) (Deleted by amendment, P.L.1977, c.53.)

39 (3) The collection and disposal of municipal solid waste, the
40 collection and disposition of recyclable material, or the disposal of
41 sewage sludge, for any term not exceeding in the aggregate, five
42 years;

43 (4) The collection and recycling of methane gas from a sanitary
44 landfill facility, for any term not exceeding 25 years, when the
45 contract is in conformance with a district solid waste management
46 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
47 with the approval of the Division of Local Government Services in
48 the Department of Community Affairs and the Department of
49 Environmental Protection. The contracting unit shall award the

1 contract to the highest responsible bidder, notwithstanding that the
2 contract price may be in excess of the amount of any necessarily
3 related administrative expenses; except that if the contract requires
4 the contracting unit to expend funds only, the contracting unit shall
5 award the contract to the lowest responsible bidder. The approval
6 by the Division of Local Government Services of public bidding
7 requirements shall not be required for those contracts exempted
8 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

9 (5) Data processing service, for any term of not more than seven
10 years;

11 (6) Insurance, including the purchase of insurance coverages,
12 insurance consulting or administrative services, claims
13 administration services and including participation in a joint self-
14 insurance fund, risk management program or related services
15 provided by a contracting unit insurance group, or participation in
16 an insurance fund established by a local unit pursuant to
17 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
18 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
19 than three years;

20 (7) Leasing or servicing of (a) automobiles, motor vehicles,
21 machinery, and equipment of every nature and kind, for a period not
22 to exceed five years, or (b) machinery and equipment used in the
23 generation of electricity by a municipal shared services energy
24 authority established pursuant to section 4 of P.L.2015, c.129
25 (C.40A:66-4), or a contracting unit engaged in the generation of
26 electricity, for a period not to exceed 20 years; provided, however, a
27 contract shall be awarded only subject to and in accordance with the
28 rules and regulations promulgated by the Director of the Division of
29 Local Government Services in the Department of Community
30 Affairs;

31 (8) The supplying of any product or the rendering of any service
32 by a company providing voice, data, transmission, or switching
33 services for a term not exceeding five years;

34 (9) Any single project for the construction, reconstruction, or
35 rehabilitation of any public building, structure, or facility, or any
36 public works project, including the retention of the services of any
37 architect or engineer in connection therewith, for the length of time
38 authorized and necessary for the completion of the actual
39 construction;

40 (10) The providing of food services for any term not exceeding
41 three years;

42 (11) On-site inspections and plan review services undertaken by
43 private agencies pursuant to the "State Uniform Construction Code
44 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
45 more than three years;

46 (12) (Deleted by amendment, P.L.2009, c.4).

47 (13) (Deleted by amendment, P.L.1999, c.440.)

48 (14) (Deleted by amendment, P.L.1999, c.440.)

1 (15) Leasing of motor vehicles, machinery, and other
2 equipment primarily used to fight fires, for a term not to exceed ten
3 years, when the contract includes an option to purchase, subject to
4 and in accordance with rules and regulations promulgated by the
5 Director of the Division of Local Government Services in the
6 Department of Community Affairs;

7 (16) The provision of water supply services or the designing,
8 financing, construction, operation, or maintenance, or any
9 combination thereof, of a water supply facility, or any component
10 part or parts thereof, including a water filtration system, for a period
11 not to exceed 40 years, when the contract for these services is
12 approved by the Division of Local Government Services in the
13 Department of Community Affairs, the Board of Public Utilities,
14 and the Department of Environmental Protection pursuant to
15 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
16 required for those contracts otherwise exempted pursuant to
17 subsection (30), (31), (34), (35) or (43) of this section. For the
18 purposes of this subsection, "water supply services" means any
19 service provided by a water supply facility; "water filtration
20 system" means any equipment, plants, structures, machinery,
21 apparatus, or land, or any combination thereof, acquired, used,
22 constructed, rehabilitated, or operated for the collection,
23 impoundment, storage, improvement, filtration, or other treatment
24 of drinking water for the purposes of purifying and enhancing water
25 quality and insuring its potability prior to the distribution of the
26 drinking water to the general public for human consumption,
27 including plants and works, and other personal property and
28 appurtenances necessary for their use or operation; and "water
29 supply facility" means and refers to the real property and the plants,
30 structures, or interconnections between existing water supply
31 facilities, machinery and equipment and other property, real,
32 personal, and mixed, acquired, constructed, or operated, or to be
33 acquired, constructed, or operated, in whole or in part by or on
34 behalf of a political subdivision of the State or any agency thereof,
35 for the purpose of augmenting the natural water resources of the
36 State and making available an increased supply of water for all
37 uses, or of conserving existing water resources, and any and all
38 appurtenances necessary, useful, or convenient for the collecting,
39 impounding, storing, improving, treating, filtering, conserving, or
40 transmitting of water and for the preservation and protection of
41 these resources and facilities and providing for the conservation and
42 development of future water supply resources;

43 (17) The provision of resource recovery services by a qualified
44 vendor, the disposal of the solid waste delivered for disposal which
45 cannot be processed by a resource recovery facility or the residual
46 ash generated at a resource recovery facility, including hazardous
47 waste and recovered metals and other materials for reuse, or the
48 design, financing, construction, operation, or maintenance of a
49 resource recovery facility for a period not to exceed 40 years when

1 the contract is approved by the Division of Local Government
 2 Services in the Department of Community Affairs, and the
 3 Department of Environmental Protection pursuant to P.L.1985, c.38
 4 (C.13:1E-136 et al.); and when the resource recovery facility is in
 5 conformance with a district solid waste management plan approved
 6 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
 7 this subsection, "resource recovery facility" means a solid waste
 8 facility constructed and operated for the incineration of solid waste
 9 for energy production and the recovery of metals and other
 10 materials for reuse; or a mechanized composting facility, or any
 11 other facility constructed or operated for the collection, separation,
 12 recycling, and recovery of metals, glass, paper, and other materials
 13 for reuse or for energy production; and "residual ash" means the
 14 bottom ash, fly ash, or any combination thereof, resulting from the
 15 combustion of solid waste at a resource recovery facility;

16 (18) The sale of electricity or thermal energy, or both, produced
 17 by a resource recovery facility for a period not to exceed 40 years
 18 when the contract is approved by the Board of Public Utilities, and
 19 when the resource recovery facility is in conformance with a district
 20 solid waste management plan approved pursuant to
 21 P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this
 22 subsection, "resource recovery facility" means a solid waste facility
 23 constructed and operated for the incineration of solid waste for
 24 energy production and the recovery of metals and other materials
 25 for reuse; or a mechanized composting facility, or any other facility
 26 constructed or operated for the collection, separation, recycling, and
 27 recovery of metals, glass, paper, and other materials for reuse or for
 28 energy production;

29 (19) The provision of wastewater treatment services or the
 30 designing, financing, construction, operation, or maintenance, or
 31 any combination thereof, of a wastewater treatment system, or any
 32 component part or parts thereof, for a period not to exceed 40 years,
 33 when the contract for these services is approved by the Division of
 34 Local Government Services in the Department of Community
 35 Affairs and the Department of Environmental Protection pursuant to
 36 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
 37 required for those contracts otherwise exempted pursuant to
 38 subsection (36) or (43) of this section. For the purposes of this
 39 subsection, "wastewater treatment services" means any services
 40 provided by a wastewater treatment system, and "wastewater
 41 treatment system" means equipment, plants, structures, machinery,
 42 apparatus, or land, or any combination thereof, acquired, used,
 43 constructed, or operated for the storage, collection, reduction,
 44 recycling, reclamation, disposal, separation, or other treatment of
 45 wastewater or sewage sludge, or for the final disposal of residues
 46 resulting from the treatment of wastewater, including, but not
 47 limited to, pumping and ventilating stations, facilities, plants and
 48 works, connections, outfall sewers, interceptors, trunk lines, and

- 1 other personal property and appurtenances necessary for their
2 operation;
- 3 (20) The supplying of goods or services for the purpose of
4 lighting public streets, for a term not to exceed five years;
- 5 (21) The provision of emergency medical services for a term
6 not to exceed five years;
- 7 (22) Towing and storage contracts, awarded pursuant to
8 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
9 (C.40A:11-5) for any term not exceeding three years;
- 10 (23) Fuel for the purpose of generating electricity for a term not
11 to exceed eight years;
- 12 (24) The purchase of electricity or administrative or dispatching
13 services related to the transmission of electricity, from a supplier of
14 electricity subject to the jurisdiction of a federal regulatory agency,
15 from a qualifying small power producing facility or qualifying
16 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
17 supplier of electricity within any regional transmission organization
18 or independent system operator or from an organization or operator
19 or their successors, by a contracting unit engaged in the generation
20 of electricity for retail sale, as of May 24, 1991, for a term not to
21 exceed 40 years, or by a contracting unit engaged solely in the
22 distribution of electricity for retail sale for a term not to exceed ten
23 years, except that a contract with a contracting unit, engaged solely
24 in the distribution of electricity for retail sale, in excess of ten
25 years, shall require the written approval of the Director of the
26 Division of Local Government Services. If the director fails to
27 respond in writing to the contracting unit within 10 business days,
28 the contract shall be deemed approved;
- 29 (25) Basic life support services, for a period not to exceed five
30 years. For the purposes of this subsection, "basic life support"
31 means a basic level of prehospital care, which includes but need not
32 be limited to patient stabilization, airway clearance,
33 cardiopulmonary resuscitation, hemorrhage control, initial wound
34 care, and fracture stabilization;
- 35 (26) (Deleted by amendment, P.L.1999, c.440.)
- 36 (27) The provision of transportation services to an elderly
37 person, an individual with a disability, or an indigent person for any
38 term of not more than three years. For the purposes of this
39 subsection, "elderly person " means a person who is 60 years of age
40 or older. "Individual with a disability" means a person of any age
41 who, by reason of illness, injury, age, congenital malfunction, or
42 other permanent or temporary incapacity or disability, are unable,
43 without special facilities or special planning or design to utilize
44 mass transportation facilities and services as effectively as persons
45 who are not so affected. "Indigent person " means a person of any
46 age whose income does not exceed 100 percent of the poverty level,
47 adjusted for family size, established and adjusted under section
48 673(2) of subtitle B, the "Community Services Block Grant Act,"
49 Pub.L.97-35 (42 U.S.C. s.9902 (2));

- 1 (28) The supplying of liquid oxygen or other chemicals, for a
2 term not to exceed five years, when the contract includes the
3 installation of tanks or other storage facilities by the supplier, on or
4 near the premises of the contracting unit;
- 5 (29) The performance of patient care services by contracted
6 medical staff at county hospitals, correction facilities, and long term
7 care facilities, for any term of not more than three years;
- 8 (30) The acquisition of an equitable interest in a water supply
9 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
10 contract entered into pursuant to the "County and Municipal Water
11 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
12 no later than January 7, 1995, for any term of not more than forty
13 years;
- 14 (31) The provision of water supply services or the financing,
15 construction, operation, or maintenance or any combination thereof,
16 of a water supply facility or any component part or parts thereof, by
17 a partnership or copartnership established pursuant to a contract
18 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
19 period not to exceed 40 years;
- 20 (32) Laundry service and the rental, supply, and cleaning of
21 uniforms for any term of not more than three years;
- 22 (33) The supplying of any product or the rendering of any
23 service, including consulting services, by a cemetery management
24 company for the maintenance and preservation of a municipal
25 cemetery operating pursuant to the "New Jersey Cemetery Act,"
26 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;
- 27 (34) A contract between a public entity and a private firm
28 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
29 water supply services may be entered into for any term which, when
30 all optional extension periods are added, may not exceed 40 years;
- 31 (35) A contract for the purchase of a supply of water from a
32 public utility company subject to the jurisdiction of the Board of
33 Public Utilities in accordance with tariffs and schedules of charges
34 made, charged or exacted or contracts filed with the Board of Public
35 Utilities, for any term of not more than 40 years;
- 36 (36) A contract between a public entity and a private firm or
37 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
38 the provision of wastewater treatment services may be entered into
39 for any term of not more than 40 years, including all optional
40 extension periods;
- 41 (37) The operation and management of a facility under a license
42 issued or permit approved by the Department of Environmental
43 Protection, including a wastewater treatment system , a stormwater
44 management system, or a water supply or distribution facility, as
45 the case may be, for any term of not more than ten years. For the
46 purposes of this subsection, "wastewater treatment system" refers to
47 facilities operated or maintained for the storage, collection,
48 reduction, disposal, or other treatment of wastewater or sewage
49 sludge, remediation of groundwater contamination, stormwater

1 runoff, or the final disposal of residues resulting from the treatment
2 of wastewater; "stormwater management system" means the same
3 as that term is defined in section 3 of P.L. , c. (C.) (pending
4 before the Legislature as this bill); and "water supply or distribution
5 facility" refers to facilities operated or maintained for augmenting
6 the natural water resources of the State, increasing the supply of
7 water, conserving existing water resources, or distributing water to
8 users;

9 (38) Municipal solid waste collection from facilities owned by
10 a contracting unit, for any term of not more than three years;

11 (39) Fuel for heating purposes, for any term of not more than
12 three years;

13 (40) Fuel or oil for use in motor vehicles for any term of not
14 more than three years;

15 (41) Plowing and removal of snow and ice for any term of not
16 more than three years;

17 (42) Purchases made under a contract awarded by the Director
18 of the Division of Purchase and Property in the Department of the
19 Treasury for use by counties, municipalities, or other contracting
20 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
21 term not to exceed the term of that contract;

22 (43) A contract between the governing body of a city of the first
23 class and a duly incorporated nonprofit association for the provision
24 of water supply services as defined in subsection (16) of this
25 section, or wastewater treatment services as defined in subsection
26 (19) of this section, may be entered into for a period not to exceed
27 40 years;

28 (44) The purchase of electricity generated through class I
29 renewable energy or from a power production facility that is fueled
30 by methane gas extracted from a landfill in the county of the
31 contacting unit for any term not exceeding 25 years;

32 (45) The provision or performance of goods or services for the
33 purpose of producing class I renewable energy or class II renewable
34 energy, as those terms are defined in section 3 of
35 P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by,
36 or operations conducted by, the contracting unit, the entire price of
37 which is to be established as a percentage of the resultant savings in
38 energy costs, for a term not to exceed 15 years; provided, however,
39 that a contract shall be entered into only subject to and in
40 accordance with guidelines promulgated by the Board of Public
41 Utilities establishing a methodology for computing energy cost
42 savings and energy generation costs;

43 (46) A power supply contract, as defined pursuant to section 3
44 of P.L.2015, c.129 (C.40A:66-3), between a member municipality
45 as defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3),
46 and the municipal shared services energy authority established
47 pursuant to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to
48 meet the electric power needs of its members, for the lease,
49 operation, or management of electric generation within a member

1 municipality's corporate limits and franchise area or the purchase of
2 electricity, or the purchase of fuel for generating units for a term not
3 to exceed 40 years; and

4 (47) A contract entered into pursuant to paragraph (2) of
5 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
6 a county hospital authority and a manager for the management,
7 operation, and maintenance of a hospital owned by the authority or
8 the county for a term not to exceed 20 years, provided, however,
9 that a contract entered into pursuant to paragraph (2) of subsection
10 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
11 two additional periods, not to exceed five years each.

12 Any contract for services other than professional services, the
13 statutory length of which contract is for three years or less, may
14 include provisions for no more than one two-year, or two one-year,
15 extensions, subject to the following limitations: a. The contract
16 shall be awarded by resolution of the governing body upon a
17 finding by the governing body that the services are being performed
18 in an effective and efficient manner; b. No contract shall be
19 extended so that it runs for more than a total of five consecutive
20 years; c. Any price change included as part of an extension shall be
21 based upon the price of the original contract as cumulatively
22 adjusted pursuant to any previous adjustment or extension and shall
23 not exceed the change in the index rate for the 12 months preceding
24 the most recent quarterly calculation available at the time the
25 contract is renewed; and d. The terms and conditions of the contract
26 remain substantially the same.

27 All multiyear leases and contracts entered into pursuant to this
28 section, including any two-year or one-year extensions, except
29 contracts involving the supplying of electricity for the purpose of
30 lighting public streets and contracts for thermal energy authorized
31 pursuant to subsection (1) above, construction contracts authorized
32 pursuant to subsection (9) above, contracts for the provision or
33 performance of goods or services or the supplying of equipment to
34 promote energy conservation through the production of class I
35 renewable energy or class II renewable energy authorized pursuant
36 to subsection (45) above, contracts for water supply services or for
37 a water supply facility, or any component part or parts thereof
38 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
39 or (43) above, contracts for resource recovery services or a resource
40 recovery facility authorized pursuant to subsection (17) above,
41 contracts for the sale of energy produced by a resource recovery
42 facility authorized pursuant to subsection (18) above, contracts for
43 wastewater treatment services or for a wastewater treatment system
44 or any component part or parts thereof authorized pursuant to
45 subsection (19), (36), (37), or (43) above, contracts for the
46 operation and maintenance of a stormwater management system
47 authorized pursuant to subsection (37) above, and contracts for the
48 purchase of electricity or administrative or dispatching services
49 related to the transmission of electricity authorized pursuant to

1 subsection (24) above, contracts for the purchase of electricity
2 generated from a power production facility that is fueled by
3 methane gas authorized pursuant to subsection (44) above, and
4 power supply contracts authorized pursuant to subsection (46)
5 respectively, shall contain a clause making them subject to the
6 availability and appropriation annually of sufficient funds as may
7 be required to meet the extended obligation, or contain an annual
8 cancellation clause.

9 The Division of Local Government Services in the Department
10 of Community Affairs shall adopt and promulgate rules and
11 regulations concerning the methods of accounting for all contracts
12 that do not coincide with the fiscal year.

13 All contracts shall cease to have effect at the end of the
14 contracted period and shall not be extended by any mechanism or
15 provision, unless in conformance with the "Local Public Contracts
16 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
17 may be extended by mutual agreement of the parties to the contract
18 when a contracting unit has commenced rebidding prior to the time
19 the contract expires or when the awarding of a contract is pending
20 at the time the contract expires.

21 (cf: P.L.2016, c.55, s.10)

22

23 ¹22. This act shall take effect on the 180th day after the date
24 of enactment, but sections 18 through 21 shall take effect
25 immediately. ¹

26

27 ¹23. Sections 19 through 22 shall take effect immediately and
28 the remainder of this act shall take effect on the 180th day after the
29 date of enactment. ¹