

SENATE, No. 1285

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Limits non-debt service portion of sewerage and utilities authority charge or fee increases to no more than two percent over previous year.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/25/2019)

1 **AN ACT** concerning fees charged by sewerage and utilities
2 authorities, amending P.L.1946, c.138, P.L.1957, c.183, and
3 P.L.1977, c.384.

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

7
8 1. Section 8 of P.L.1946, c.138 (C.40:14A-8) is amended to
9 read as follows:

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

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

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 separate charge in the nature of a connection fee or tapping fee, in
2 respect of each connection of any property with the sewerage
3 system, may be imposed upon the owner or occupant of the
4 property so connected. **【Such】** The connection charges shall be
5 uniform within each class of users, except as provided by section 2
6 of P.L.2005, c.29 **【(C.40:14A-8.30)】** (C.40:14A-8.3) and except as
7 provided by section 2 of P.L.2005, c.173 (C.40:14A-8.4), and the
8 amount thereof shall not exceed the actual cost of the physical
9 connection, if made by the authority, plus an amount computed in
10 the following manner to represent a fair payment toward the cost of
11 the system:

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

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

27 (3) The remainder shall be divided by the total number of
28 service units served by the authority at the end of the immediately
29 preceding fiscal year of the authority, and the results shall then be
30 apportioned to each new connector according to the number of
31 service units attributed to that connector, to produce the connector's
32 contribution to the cost of the system. In attributing service units to
33 each connector, the estimated average daily flow of sewage for the
34 connector shall be divided by the average daily flow of sewage for
35 the average single family residence in the authority's district to
36 produce 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
40 fee may be imposed upon those who subsequently connect in that
41 fiscal year to the system. The combination of **【such】** the
42 connection fee or tapping fee and the **【aforesaid】** periodic service
43 charges shall meet the requirements of subsection (c) **【hereof】** of
44 this section.

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

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

30 Notwithstanding the provisions of this section or the provisions
31 of any other law, rule, or regulation to the contrary, commencing in
32 the preparation of its annual budget next following enactment of
33 P.L. , c. (C.) (pending before the Legislature as this bill), a
34 sewerage authority may not increase the portion of any rent, rate,
35 fee, or other charge, imposed by the sewerage authority that is not
36 related to debt service, in excess of two percent of the portion of the
37 previous year's rent, rate, fee, or other charge, that is not related to
38 debt service, subject to the following exclusions:

39 (1) Capital expenditures, including appropriations for current
40 capital expenditures, as a component of a line item elsewhere in the
41 sewerage authority's budget, provided that the current capital
42 expenditures would be otherwise bondable;

43 (2) An increase based upon emergency temporary appropriations
44 made to meet an urgent situation or event which immediately
45 endangers the health, safety, or property of the sewerage system and
46 its users, and over which the sewerage authority had no control and
47 for which it could not plan; or

1 (3) An increase exercised so as not to affect in any way the
2 covenants contained in the bond indentures of the sewerage
3 authority.

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

13 (cf: P.L.2005, c.173, s.1)

14

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

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

1 on any combination of **【such】** these factors, and may give weight to
2 the characteristics of the water or water services, facilities, or
3 products and, as to service outside the district, any other matter
4 affecting the cost of supplying or furnishing the same, including the
5 cost of installation of necessary physical properties.

6 Every municipal authority that furnishes water supply services or
7 operates water supply facilities shall establish a rate structure that
8 provides for uniform water service charges for water supply service
9 and fire protection systems.

10 **【No】** A municipal authority may not impose standby fees or
11 charges for any fire protection system to a residential customer
12 served by a water service line of two inches or less in diameter.

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

19 b. In addition to any **【such】** water service charges, a separate
20 charge in the nature of a connection fee or tapping fee, in respect of
21 each connection of any property with the water system, may be
22 imposed upon the owner or occupant of the property so connected.
23 Such connection charges shall be uniform within each class of
24 users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-
25 22.3) and except as provided by section 5 of P.L.2005, c.173
26 (C.40:14B-22.4), and the amount thereof shall not exceed the actual
27 cost of the physical connection, if made by the authority, plus an
28 amount computed in the following manner to represent a fair
29 payment toward the cost of the system:

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

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

45 (3) The remainder shall be divided by the total number of
46 service units served by the authority at the end of the immediately
47 preceding fiscal year of the authority, and the results shall then be
48 apportioned to each new connector according to the number of

1 service units attributed to that connector, to produce the connector's
2 contribution to the cost of the system. In attributing service units to
3 each connector, the estimated average daily flow of water for the
4 connector shall be divided by the average daily flow of water to the
5 average single family residence in the authority's district, to
6 produce the number of service units to be attributed.

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

15 d. The foregoing notwithstanding, **【no】** a municipal authority
16 shall not impose any charges or fees in excess of the cost of water
17 actually used for any sprinkler system required to be installed in
18 any residential health care facility pursuant to the "Health Care
19 Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and
20 regulations promulgated thereunder or in any rooming or boarding
21 house pursuant to the "Rooming and Boarding House Act of 1979,"
22 P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated
23 thereunder. Nothing herein shall preclude any municipal authority
24 from charging for the actual cost of water main connections, except
25 as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and
26 except as provided by section 5 of P.L.2005, c.173 (C.40:14B-
27 22.4).

28 e. Notwithstanding the provisions of this section or the
29 provisions of any other law, rule, or regulation to the contrary,
30 commencing in the preparation of its annual budget next following
31 enactment of P.L. , c. (C.) (pending before the Legislature
32 as this bill), a municipal authority may not increase the portion of
33 any service charge or fee, imposed by the municipal authority that
34 is not related to debt service, in excess of two percent of the portion
35 of the previous year's service charge or fee, that is not related to
36 debt service, subject to the following exclusions:

37 (1) Capital expenditures, including appropriations for current
38 capital expenditures, as a component of a line item elsewhere in the
39 municipal authority's budget, provided that the current capital
40 expenditures would be otherwise bondable;

41 (2) An increase based upon emergency temporary appropriations
42 made to meet an urgent situation or event which immediately
43 endangers the health, safety, or property of the utility system and its
44 users, and over which the municipal authority had no control and
45 for which it could not plan; or

46 (3) An increase exercised so as not to affect in any way the

1 covenants contained in the bond indentures of the municipal
2 authority.

3 (cf: P.L.2005, c.173, s.3)

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

7 22. Every municipal authority is hereby authorized to charge and
8 collect rents, rates, fees, or other charges (in this act sometimes
9 referred to as "sewerage service charges") for direct or indirect
10 connection with, or the use or services of, the sewerage system.
11 **[Such]** These sewerage service charges may be charged to and
12 collected from any person contracting for **[such]** the connection or
13 use or services or from the owner or occupant, or both of them, of
14 any real property which directly or indirectly is or has been
15 connected with the sewerage system or from or on which originates
16 or has originated sewage or other wastes which directly or
17 indirectly have entered or may enter the sewerage system, and the
18 owner of **[any such]** that real property shall be liable for and shall
19 pay **[such]** the sewerage service charges to the municipal authority
20 at the time when and place where **[such]** the sewerage service
21 charges are due and payable. **[Such]** The rents, rates, fees, and
22 charges, being in the nature of use or service charges, shall as
23 nearly as the municipal authority shall deem practicable and
24 equitable be uniform throughout the district for the same type, class,
25 and amount of use or service of the sewerage system, except as
26 permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may
27 be based or computed either on the consumption of water on or in
28 connection with the real property, making due allowance for
29 commercial use of water, or on the number and kind of water
30 outlets on or in connection with the real property, or on the number
31 and kind of plumbing or sewerage fixtures or facilities on or in
32 connection with the real property, or on the number of persons
33 residing or working on or otherwise connected or identified with the
34 real property, or on the capacity of the improvements on or
35 connected with the real property, or on any other factors
36 determining the type, class, and amount of use or service of the
37 sewerage system, or on any combination of any such factors, and
38 may give weight to the characteristics of the sewage and other
39 wastes and any other special matter affecting the cost of treatment
40 and disposal of the same, including chlorine demand, biochemical
41 oxygen demand, concentration of solids and chemical composition,
42 and, as to service outside the district, the cost of installation of
43 necessary physical properties.

44 In addition to any **[such]** sewerage service charges, a separate
45 charge in the nature of a connection fee or tapping fee, in respect of
46 each connection of any property with the sewerage system, may be
47 imposed upon the owner or occupant of the property so connected.

1 Such connection charges shall be uniform within each class of
2 users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-
3 22.3) and except as provided by section 5 of P.L.2005, c.173
4 (C.44:14B-22.4), and the amount thereof shall not exceed the actual
5 cost of the physical connection, if made by the authority, plus an
6 amount computed in the following manner to represent a fair
7 payment towards the cost of the system:

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

17 b. Any gifts, contributions, or subsidies to the authority
18 received from, and not reimbursed or reimbursable to, any federal,
19 State, county, or municipal government or agency or any private
20 person, and that portion of amounts paid to the authority by a public
21 entity under a service agreement or service contract which is not
22 repaid to the public entity by the authority, shall then be subtracted.

23 c. The remainder shall be divided by the total number of
24 service units served by the authority at the end of the immediately
25 preceding fiscal year of the authority, and the results shall then be
26 apportioned to each new connector according to the number of
27 service units attributed to that connector. In attributing service
28 units to each connector, the estimated average daily flow of sewage
29 for the connector shall be divided by the average daily flow of
30 sewage from the average single family residence in the authority's
31 district, to produce the number of service units to be attributed.

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

37 The combination of **【such】** the connection fee or tapping fee and
38 the **【aforesaid】** sewerage service charges shall meet the
39 requirements of section 23 of P.L.1957, c.183 (C.40:14B-23).

40 Notwithstanding the provisions of this section or the provisions
41 of any other law, rule, or regulation to the contrary, commencing in
42 the preparation of its annual budget next following enactment of
43 P.L. , c. (C.) (pending before the Legislature as this bill), a
44 municipal authority may not increase the portion of any service
45 charge or fee, imposed by the municipal authority that is not related
46 to debt service, in excess of two percent of the portion of the
47 previous year's service charge or fee, that is not related to debt
48 service, subject to the following exclusions:

1 (1) Capital expenditures, including appropriations for current
2 capital expenditures, as a component of a line item elsewhere in the
3 municipal authority's budget, provided that the current capital
4 expenditures would be otherwise bondable;

5 (2) An increase based upon emergency temporary appropriations
6 made to meet an urgent situation or event which immediately
7 endangers the health, safety, or property of the utility system and its
8 users, and over which the municipal authority had no control and
9 for which it could not plan; or

10 (3) An increase exercised so as not to affect in any way the
11 covenants contained in the bond indentures of the municipal
12 authority.

13 (cf: P.L.2005, c.173, s.4)

14
15 4. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended
16 to read as follows:

17 15. a. Every municipal authority is hereby authorized to charge
18 and collect rents, rates, fees, or other charges (in this act sometimes
19 referred to as "solid waste service charges") for the use or services
20 of the solid waste system. **【Such】** These solid waste service
21 charges may be charged to and collected from any municipality or
22 any person contracting for **【such】** the use or services or from the
23 owner or occupant, or both of them, of any real property from or on
24 which originates or has originated any solid waste to be treated by
25 the solid waste system of the authority, and the owner of **【any**
26 **such】** that real property shall be liable for and shall pay **【such】** the
27 solid waste service charges to the municipal authority at the time
28 when and place where **【such】** the solid waste service charges are
29 due and payable. **【Such】** The rents, rates, fees, and charges, being
30 in the nature of use or service charges, shall as nearly as the
31 authority shall deem practicable and equitable be uniform
32 throughout the county for the same type, class, and amount of use
33 or service of the solid waste system, except as permitted by section
34 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or
35 computed on any factors determining the type, class, and amount of
36 use or service of the solid waste system, and may give weight to the
37 characteristics of the solid waste and any other special matter
38 affecting the cost of treatment and disposal of the same.

39 b. Notwithstanding the provisions of this section or the
40 provisions of any other law, rule, or regulation to the contrary,
41 commencing in the preparation of its annual budget next following
42 enactment of P.L. , c. (C.) (pending before the Legislature
43 as this bill), a municipal authority may not increase the portion of
44 any service charge or fee, imposed by the municipal authority that
45 is not related to debt service, in excess of two percent of the portion
46 of the previous year's service charge or fee, that is not related to
47 debt service, subject to the following exclusions:

1 (1) Capital expenditures, including appropriations for current
2 capital expenditures, as a component of a line item elsewhere in the
3 municipal authority's budget, provided that the current capital
4 expenditures would be otherwise bondable;

5 (2) An increase based upon emergency temporary appropriations
6 made to meet an urgent situation or event which immediately
7 endangers the health, safety, or property of the utility system and its
8 users, and over which the municipal authority had no control and
9 for which it could not plan; or

10 (3) An increase exercised so as not to affect in any way the
11 covenants contained in the bond indentures of the municipal
12 authority.

13 (cf: P.L.1992, c.215, s.3)

14
15 5. This act shall take effect immediately, but shall remain
16 inoperative for 60 days following the date of enactment.

17
18
19 STATEMENT
20

21 This bill prohibits local sewerage and utilities authorities from
22 increasing in excess of two percent annually the non-debt service
23 portion of the charges or fees that they impose on their customers.
24 The bill provides exceptions to the limit for: 1) capital expenditures
25 provided that the current capital expenditures would be otherwise
26 bondable; 2) increases based upon emergency temporary
27 appropriations made to meet an urgent situation or event which
28 immediately endangers the health, safety, or property of the
29 sewerage or utility system and its users, and over which the
30 authority had no control and for which it could not plan; or 3)
31 increases exercised so as not to affect in any way the covenants
32 contained in the bond indentures of the authorities.