

# ASSEMBLY, No. 609

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman JOHN DIMAIO**

**District 23 (Hunterdon, Somerset and Warren)**

**SYNOPSIS**

Removes municipal and county ability to divert up to five percent of funds from certain water and sewer authorities for other purposes.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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1 AN ACT concerning undesignated fund balances and unreserved  
2 retained earnings of certain local authorities, and amending  
3 P.L.2004, c.87.

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

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8 1. Section 1 of P.L.2004, c.87 (C.40A:5A-12.1) is amended to  
9 read as follows:

10 1. To the extent there is available an undesignated fund balance  
11 or unreserved retained earnings held by an authority that is subject  
12 to the provisions of the “Local Authorities Fiscal Control Law,”  
13 P.L.1983, c.313 (C.40A:5A-1 et seq.), excluding a fire district, a  
14 regional authority, an authority established pursuant to the  
15 “sewerage authorities law,” P.L.1946, c.138 (C.40:14A-1 et seq.) or  
16 the “municipal and county utilities authorities law,” P.L.1957, c.  
17 183 (C.40:14B-1 et seq.), or a housing authority, an amount in that  
18 undesignated fund balance or unreserved retained earnings, not to  
19 exceed 5% of the annual costs of operation of the authority, may be  
20 appropriated for use in the local budget of the municipality or  
21 county that created the authority unless otherwise restricted by bond  
22 covenants.

23 (cf: P.L.2004, c.87, s.1)

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25 2. This act shall take effect on January 1 next following the  
26 date of enactment.

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STATEMENT

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31 This bill would amend the “Local Authorities Fiscal Control  
32 Law” to remove the ability of municipalities and counties to divert  
33 up to five percent of funds from certain sewerage authorities and  
34 municipal and county utilities authorities for other purposes.

35 The vast majority of New Jersey’s drinking water and  
36 wastewater systems are municipal utilities and utilities authorities  
37 governed by elected and appointed officials. These publicly-owned  
38 systems determine their own rates and service, are closer to their  
39 individual communities, and are free of the requirement to ensure a  
40 profit margin for their shareholders. Despite these benefits, many  
41 of these systems are small and lack the revenues to make necessary  
42 investments, while additionally facing public pressure to keep rates  
43 low.

44 A major obstacle to more robust funding of water and sewer  
45 infrastructure is a provision in the Local Authorities Fiscal Control

**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.**

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1 Law that allows municipalities and counties to divert up to five  
2 percent of water and sewer funds for other purposes. According to  
3 the Association of Environmental Authorities, in one set of 100  
4 New Jersey municipal and authority budgets, approximately \$80  
5 million had been transferred in a three-year period. That translates  
6 into \$80 million that was not invested in improving infrastructure,  
7 and acts as a type of tax on ratepayers to subsidize local budgets.