

ASSEMBLY, No. 156

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen BUCCO and COHEN

1 AN ACT amending and supplementing the "Water Supply Bond Act of  
2 1981," as amended by P.L.1983, c.355, to authorize the  
3 Department of Environmental Protection and the "New Jersey  
4 Environmental Infrastructure Trust" to use bond moneys therefrom  
5 to provide loans and loan guarantees to local government units to  
6 plan, design, and construct water supply facilities to comply with  
7 State and federal safe drinking water standards; providing for the  
8 submission of this amendatory and supplementary act to the people  
9 at a general election and making an appropriation.

10

11 **BE IT ENACTED** by the Senate and General Assembly of the State  
12 of New Jersey:

13

14 1. Section 3 of P.L.1981, c.261 is amended to read as follows:

15 3. As used in this act:

16 [a.] "Bonds" mean the bonds authorized to be issued, or issued  
17 under this act;

18 [b.] "Commission" means the New Jersey Commission on Capital  
19 Budgeting and Planning;

20 [c.] "Commissioner" means the Commissioner of Environmental  
21 Protection;

22 [d.] "Construct" and "construction" mean, in addition to the usual  
23 meaning thereof, acts of construction, reconstruction, replacement,  
24 extension, improvement and betterment;

25 [e.] "Cost" means the cost incurred by the department for planning  
26 and feasibility studies for ground and surface water programs, water  
27 delivery and treatment programs, analysis and implementation of water  
28 conservation practices, [and] or for updating the New Jersey  
29 Statewide Water Supply Plan[, the cost of]; or the expenses incurred  
30 in connection with: the acquisition or construction of all or any part of  
31 a project and all or any real or personal property, agreements and  
32 franchises deemed by the department to be necessary or useful and

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

**Matter underlined thus is new matter.**

1 convenient therefor or in connection therewith, including interest or  
2 discount on bonds, costs of issuance of bonds, cost of geological and  
3 hydrological services, administrative cost, interconnection testing,  
4 engineering and inspection costs and legal expenses, costs of financial,  
5 professional and other estimates and advice, organization, operating  
6 and other expenses prior to and during such acquisition or  
7 construction, and all such other expenses as may be necessary or  
8 incident to the financing, acquisition, construction and completion of  
9 such project or part thereof and the placing of the same in operation,  
10 and also such provisions for a reserve fund, or reserves for working  
11 capital, operating, maintenance or replacement expenses and for the  
12 payment or security of principal of or interest on bonds during or after  
13 such acquisition or construction as the **[State Comptroller] Director**  
14 **of the Division of Budget and Accounting in the Department of the**  
15 **Treasury** may determine;

16 [f.] "Department" means the Department of Environmental  
17 Protection;

18 "Local government unit" means a State authority, district water  
19 supply commission, county, municipality, municipal or county utilities  
20 authority, municipal water district, joint meeting or any other political  
21 subdivision of the State authorized pursuant to law to operate or  
22 maintain a public water supply system or to construct, rehabilitate,  
23 operate or maintain water supply facilities or otherwise provide water  
24 for human consumption;

25 [g.] "Project" or "water supply project" means any work relating  
26 to **[water supply facilities]** any of the purposes enumerated in  
27 subsection a. of section 4 of P.L.1981, c.261;

28 [h.] "Real property" means lands, within or without the State, and  
29 improvements thereof or thereon, any and all rights-of-way, water,  
30 riparian and other rights, and any and all easements, and privileges in  
31 real property, and any right or interest of any kind or description in,  
32 relating to or connected with real property;

33 [i.] "Water supply facilities" means and refers to the real property  
34 and the plants, structures, interconnections between existing water  
35 supply facilities, machinery and equipment and other property, real,  
36 personal and mixed, acquired, constructed or operated, or to be  
37 acquired, constructed or operated, in whole or in part, by or on behalf  
38 of the State, or of a political subdivision of the State or any agency  
39 thereof, for the purpose of augmenting the natural water resources of  
40 the State and making available an increased supply of water for all  
41 uses, or of conserving existing water resources, and any and all  
42 appurtenances necessary, useful or convenient for the collecting,  
43 impounding, storing, improving, treating, filtering, conserving or  
44 transmitting of water, and for the preservation and protection of these  
45 resources and facilities, and providing for the conservation and  
46 development of future water supply resources and facilitating

1 incidental recreational uses thereof;

2 "Trust" means the New Jersey Environmental Infrastructure Trust  
3 established pursuant to the "New Jersey Environmental Infrastructure  
4 Trust Act," P.L.1985, c.334 (C.58:11B-1 et seq.).

5 (cf: P.L.1983, c.355, s.1)

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7 2. Section 4 of P.L.1981, c.261 is amended to read as follows:

8 4. a. Bonds of the State of New Jersey are authorized to be issued  
9 in the aggregate principal amount of \$350,000,000.00 for the purposes  
10 of (1) covering the costs of the department for planning and feasibility  
11 studies for ground and surface water programs, water delivery and  
12 treatment programs, the analysis and implementation of water  
13 conservation practices, or the updating of the New Jersey Statewide  
14 Water Supply Plan; [for] (2) planning, designing, and constructing  
15 State water supply facilities; [and for] (3) providing loans [for] to  
16 local [projects] government units to plan, design, and construct water  
17 supply facilities [to resolve contamination problems], as identified by  
18 the department, to comply with existing and more stringent future  
19 requirements of the federal Safe Drinking Water Act and the "Safe  
20 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any  
21 rules, regulations or standards adopted pursuant thereto; and [for] (4)  
22 the rehabilitation, repair or consolidation of antiquated, damaged or  
23 inadequately operating water supply facilities, all as identified pursuant  
24 to the water supply project priority list adopted by the commissioner  
25 pursuant to section 28 of P.L. , c. (C. ) (pending in the  
26 Legislature as Assembly Bill No. 1960 of 1994) and section 7 of  
27 P.L. , c. (pending in the Legislature as this bill), and as  
28 recommended by the New Jersey Statewide Water Supply Plan.

29 b. Payments of principal and interest on loans made from the  
30 "Water Supply Fund" shall be returned to that fund for use for any  
31 authorized purpose to which moneys in the fund may be used pursuant  
32 to P.L. , c. (pending in the Legislature as this bill).

33 (cf: P.L.1983, c.355, s.2)

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35 3. Section 5 of P.L.1981, c.261 is amended to read as follows:

36 5. a. The commissioner shall adopt, pursuant to the  
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
38 seq.), such rules and regulations as are necessary and appropriate to  
39 [carry out] implement the provisions of this act, as amended and  
40 supplemented by P.L. , c. (pending in the Legislature as this bill).

41 The commissioner shall review and consider the findings and  
42 recommendations of the commission in the administration of the  
43 provisions of this act.

44 b. The department, or the New Jersey Water Supply Authority, as  
45 the case may be, shall develop a program to charge water supply users  
46 which benefit from any projects funded pursuant to this act, for the full

1 cost of planning, designing, acquiring, constructing and operating that  
2 project. The department shall determine the appropriate proportion, if  
3 any, of planning and feasibility study costs directly attributable to a  
4 particular project to be included as part of the cost of that project.

5 (cf: P.L.1983, c.355, s.3)

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7 4. Section 10 of P.L.1981, c.261 is amended to read as follows:

8 10. a. The bonds shall recite that they are issued for the purposes  
9 set forth in subsection a. of section 4 of this act and that they are  
10 issued [in pursuance] pursuant to this act and that this act was  
11 submitted to the people of the State at the general election held in the  
12 month of November, 1981, and that it received the approval of the  
13 majority of votes cast for and against it at [such] the election. [Such  
14 recital in said bonds] The bonds shall also recite, if issued after the  
15 effective date of P.L. , c. (pending in the Legislature as this bill),  
16 that the amendments and supplements to P.L.1981, c.261, as amended  
17 by P.L.1983, c.355, were submitted to the people of the State at the  
18 general election held in the month of November, 1995, and were  
19 approved by a majority of the legally qualified voters of the State  
20 voting thereon. These recitals shall be conclusive evidence of the  
21 authority of the State to issue [said] the bonds and of their validity.  
22 Any bonds containing [such recital] the recitals shall in any suit, action  
23 or proceeding involving their validity be conclusively deemed to be  
24 fully authorized by this act and to have been issued, sold, executed and  
25 delivered in conformity therewith and with all other provisions of  
26 [statutes] laws applicable thereto, and shall be incontestable for any  
27 cause.

28 b. [Such] The bonds shall be issued in [such] those denominations  
29 and in [such] the form or forms, whether coupon [or registered as to  
30 both principal and interest], fully-registered or book-entry, and with  
31 or without [such] provisions for the interchangeability thereof, as may  
32 be determined by the issuing officials.

33 (cf: P.L.1989, c.181, s.10)

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35 5. Section 14 of P.L.1981, c.261 is amended to read as follows:

36 14. The proceeds from the sale of the bonds authorized pursuant  
37 to section 4 of P.L.1981, c.261 shall be paid to the State Treasurer  
38 [and be held by him] for deposit in a separate nonlapsing revolving  
39 fund, [and be deposited in such depositories as may be selected by him  
40 to the credit of the fund,]which fund shall be known as the "Water  
41 Supply Fund," for use by the department as hereinafter provided.

42 (cf. P.L.1981, c.261, s.14)

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44 6. Section 15 of P.L.1981, c.261 is amended to read as follows:

45 15. a. The moneys in [said] the "Water Supply Fund" are hereby  
46 specifically dedicated and shall be applied to the cost of the purposes

1 set forth in subsection a. of section 4 of [this act] P.L.1981, c.261, and  
2 all such moneys are hereby appropriated for such purposes[, and no  
3 such moneys]. However, no moneys in the fund shall be expended for  
4 [such] those purposes[(except as otherwise hereinbelow authorized)].  
5 except as otherwise authorized by this act, without the specific  
6 appropriation thereof by the Legislature, but bonds may be issued as  
7 herein provided notwithstanding that the Legislature shall not have  
8 then adopted an act making specific appropriation of any [said] of the  
9 moneys. Any act appropriating moneys from the "Water Supply Fund"  
10 shall identify the particular project to be funded by [such] the moneys.  
11 Payments of principal and interest on loans made from the "Water  
12 Supply Fund" shall be returned to that fund for use for any authorized  
13 purpose to which moneys in the fund may be used pursuant to  
14 subsection a. of section 4 of P.L.1981, c.261.

15 (1) Payments of principal and interest on loans returned to the  
16 "Water Supply Fund" may be made available to the trust, with the  
17 concurrence of the department, for temporary use by the trust for any  
18 of the purposes set forth in paragraph (2) of this subsection, under  
19 terms and conditions established therefor by the commissioner and the  
20 trust and approved by the State Treasurer. A maximum of  
21 \$50,000,000 may be made available to the trust for these purposes.

22 Any moneys made available to the trust pursuant to this paragraph  
23 shall be deposited in a separate nonlapsing revolving fund, which shall  
24 be known as the "Water Supply Trust Fund," for use by the trust as  
25 hereinafter provided. The trust shall repay to the "Water Supply Fund"  
26 any moneys made available for temporary use. Repayment shall be in  
27 accordance with the terms and conditions approved therefor.

28 (2) The moneys in the "Water Supply Trust Fund" are specifically  
29 dedicated and allocated to, and shall be applied to the cost of, the  
30 establishment by the trust of reserve and loan guarantee accounts  
31 within that fund. The reserve account is to be used to secure debt  
32 issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.);  
33 and the guarantee account is to be used by the trust to secure debt  
34 issued by a local government unit. The trust shall not directly or  
35 indirectly use any moneys paid to it pursuant to this paragraph for the  
36 purpose of issuing a loan guarantee in connection with the financing  
37 of a water supply project, unless the project, and the amount and the  
38 terms or conditions of the loan guarantee, shall have been approved by  
39 the Legislature. Moneys in the reserve and loan guarantee accounts  
40 may be made available to the department, with the concurrence of the  
41 trust, for temporary use by the department in implementing the  
42 provisions of P.L.1981, c.261, under terms and conditions established  
43 therefor by the commissioner and the trust and approved by the State  
44 Treasurer. The department shall repay to the "Water Supply Trust  
45 Fund" any sums made available for temporary use. Repayment shall be  
46 in accordance with the terms and conditions approved therefor.

1       (3) Moneys in the "Water Supply Fund" may be transferred to the  
2 trust for use as set forth in paragraph (2) of this subsection.

3       If the "New Jersey Environmental Infrastructure Trust Act"  
4 (pending in the Legislature as Assembly Bill No. 1960 of 1994) has  
5 not been enacted into law by the date of the approval of this act by the  
6 voters, paragraphs (1) (2) and (3) of this subsection shall be  
7 inoperative.

8       b. At any time prior to the issuance and sale of bonds under this  
9 act, the State Treasurer is hereby authorized to transfer from any  
10 available [money] moneys in any fund of the Treasury of the State to  
11 the credit of the "Water Supply Fund" [such sum as he] or the "Water  
12 Supply Trust Fund" those sums as the State Treasurer may deem  
13 necessary. [Said sum] The sums so transferred shall be returned to the  
14 same fund of the treasury of [this] the State by the [treasurer thereof]  
15 State Treasurer from the proceeds of the sale of the first issue of  
16 bonds.

17       c. Pending their application to the [purpose] purposes provided in  
18 this act, the moneys in the "Water Supply Fund" may be invested and  
19 reinvested as are other trust funds in the custody of the State  
20 Treasurer, in the manner provided by law, and moneys in the "Water  
21 Supply Trust Fund" may be invested and reinvested by the trust as are  
22 other trust funds in the custody of the [State Treasurer in the manner  
23 provided by law] trust. Net earnings received from the investment or  
24 deposit of [such fund shall be paid into the General State Fund]  
25 moneys in the "Water Supply Fund" shall be paid to that fund for use  
26 by the department to cover administrative expenses incurred in  
27 administering that fund, and net earnings received from the investment  
28 or deposit of moneys in the "Water Supply Trust Fund" shall be paid  
29 to that fund for use by the trust to cover administrative expenses  
30 incurred in administering that fund. Any moneys not required for  
31 administrative expenses shall be used for any other authorized purpose  
32 to which moneys in the respective funds may be used.

33       d. The department and the trust may charge and collect annually  
34 from local government units fees and charges in connection with any  
35 loans, guarantees or other services provided by the department or the  
36 trust, in amounts sufficient to reimburse the department or the trust for  
37 all reasonable costs necessarily incurred in connection therewith, and  
38 in connection with the establishment and maintenance of reserve or  
39 other funds, as the department or trust may determine to be  
40 reasonable.

41 (cf: P.L.1981, c.261, s.15)

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43       7. (New section) The commissioner shall, on or before January 15  
44 of each year, develop and submit to the Legislature a priority system  
45 for water supply projects and shall establish the ranking criteria and  
46 funding policies for the projects therefor. The commissioner shall set

1 forth a water supply project priority list for funding for each fiscal year  
2 and shall include the aggregate amount of funds to be authorized for  
3 these purposes. The commissioner shall not include a water supply  
4 project on the project priority list for funding unless that specific  
5 project shall have been recommended by the New Jersey Statewide  
6 Water Supply Plan. No moneys shall be expended for loans in a fiscal  
7 year for any water supply project unless the expenditure is authorized  
8 pursuant to an appropriations act.

9 As part of the annual submission required by this subsection, the  
10 department and the trust shall each provide a financial accounting of  
11 all project expenditures made in the preceding year, and of all  
12 administrative expenses incurred by the department and the trust from  
13 interest earnings from the "Water Supply Fund" and the "Water Supply  
14 Trust Fund" in connection therewith.

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16 8. Section 26 of P.L.1981, c.261 is amended to read as follows:

17 26. Not less than 30 days prior to the commissioner or the trust  
18 entering into any contract, lease, obligation, or agreement to effectuate  
19 the purposes of this act, the commissioner or the trust shall report to  
20 and consult with the [special joint legislative committee created  
21 pursuant to Assembly Concurrent Resolution No. 66 of the 1968  
22 Legislature as reconstituted and continued from time to time by the  
23 Legislature] Joint Budget Oversight Committee, or its successor.

24 (cf: P.L.1981, c.261, s.26)

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26 9. (New section) All appropriations from the "Water Supply Fund"  
27 shall be by specific allocation for each project, and any transfer of any  
28 funds so appropriated shall require the approval of the Joint Budget  
29 Oversight Committee or its successor.

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31 10. (New section) For the purpose of complying with the  
32 provisions of the State Constitution, this act shall be submitted to the  
33 people at the general election to be held in the month of November,  
34 1995. To inform the people of the contents of this act, it shall be the  
35 duty of the Secretary of State, after this section takes effect, and at  
36 least 60 days prior to the election, to cause this act to be published at  
37 least once in one or more newspapers of each county, if any  
38 newspapers are published therein, and to notify the clerk of each  
39 county of this State of the passage of this act; and the clerks  
40 respectively, in accordance with the instructions of the Secretary of  
41 State, shall have printed on each of the ballots the following:

42 If you approve of the act entitled below, make a cross (X), plus (+),  
43 or check (O) mark in the square opposite the word "Yes."

44 If you disapprove of the act entitled below, make a cross (X), plus  
45 (+), or check (O) mark in the square opposite the word "No."

46 If voting machines are used, a vote of "Yes" or "No" shall be

1 equivalent to these markings respectively.

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	<p>YES</p>	<p style="text-align: center;">AMENDS AND SUPPLEMENTS WATER SUPPLY BOND ACT OF 1981</p> <p>Shall the amendments and supplementary language to the "Water Supply Bond Act of 1981," which authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to use such bonds to provide loans and loan guarantees to local governments to plan, design, and construct water supply facilities to comply with State and federal safe drinking water standards, and to establish reserve and guarantee accounts in conjunction therewith, be approved?</p>
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	<p>NO</p>	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the use of moneys from bonds issued under the "Water Supply Bond Act of 1981" to make loans to local governments to finance the costs of water supply projects needed to comply with State and federal safe drinking water standards. The "Water Supply Bond Act of 1981" was approved by the voters in 1981 and again in 1983 in revised form. The proposed revisions to the "Water Supply Bond Act of 1981" in this act authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to use the bond moneys for a combined loan and loan guarantee program for water supply projects.</p> <p>Approval of these revisions to the "Water Supply Bond Act of 1981" would not involve any new State bonded indebtedness.</p>
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The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this amendatory

1 act, by ballot or voting machine, shall be counted and the result  
2 thereof returned by the election officer, and a canvass of the election  
3 had in the same manner as is provided for by law in the case of the  
4 election of a Governor, and the approval or disapproval of this act so  
5 determined shall be declared in the same manner as the result of an  
6 election for a Governor, and if there is a majority of all the votes cast  
7 for and against it at the election in favor of the approval of this  
8 amendatory and supplementary act, then all the provisions thereof not  
9 made effective theretofore shall take effect forthwith.

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11 11. (New section) There is appropriated, from the General Fund,  
12 the sum of \$5,000 to the Department of State for expenses in  
13 connection with the publication of the notice required pursuant to  
14 section 10 of P.L. , c. (pending in the Legislature as this bill).

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16 12. Sections 10 and 11 of this act shall take effect immediately, and  
17 the remainder of the act shall take effect as and when provided in  
18 section 10 of this act.

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21 STATEMENT

22  
23 This bill amends and supplements the "Water Supply Bond Act of  
24 1981," P.L.1981, c.261, to allow the Department of Environmental  
25 Protection (DEP) and the New Jersey Environmental Infrastructure  
26 Trust (Trust) to utilize bond moneys made available therefrom for  
27 loans to local governments for the development of water supply  
28 facilities to comply with existing and more stringent future  
29 requirements of the federal Safe Drinking Water Act and the "Safe  
30 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.). To  
31 qualify for financing, a project must be identified in the water supply  
32 project priority list adopted by the Commissioner of DEP pursuant to  
33 section 7 of this bill, and recommended by the New Jersey Statewide  
34 Water Supply Plan.

35 The 1981 bond act was approved in November 1981 (and again in  
36 November 1983 pursuant to P.L.1983, c.355) by the voters of New  
37 Jersey. The proposed revisions to the "Water Supply Bond Act of  
38 1981" embodied in this bill must also be approved by the electorate.

39 The bill authorizes the use of bond act moneys to capitalize two  
40 separate nonlapsing revolving funds: the "Water Supply Fund" and the  
41 "Water Supply Trust Fund."

42 The moneys in the "Water Supply Fund" would be used by the DEP  
43 for the purposes of:

44 (1) covering the department's costs for planning and feasibility  
45 studies for ground and surface water programs, water delivery and  
46 treatment programs, the analysis and implementation of water

1 conservation practices, or for updating the New Jersey Statewide  
2 Water Supply Plan;

3 (2) planning, designing, and constructing State water supply  
4 facilities;

5 (3) providing loans to local governments to plan, design, and  
6 construct water supply facilities, as identified by the department, to  
7 comply with existing and more stringent future federal and State safe  
8 drinking water requirements; and

9 (4) the rehabilitation, repair or consolidation of antiquated,  
10 damaged or inadequately operating water supply facilities.

11 Projects must be identified pursuant to the water supply project  
12 priority list adopted by the Commissioner, and as recommended by the  
13 New Jersey Statewide Water Supply Plan.

14 Payments of principal and interest on loans returned to the "Water  
15 Supply Fund" may be made available to the Trust, with the  
16 concurrence of the DEP, for temporary use by the Trust in establishing  
17 a reserve account for loans made by the Trust, and a guarantee  
18 account to secure debt issued by local governments in connection with  
19 the financing of a water supply project. A maximum of \$50,000,000  
20 may be made available to the Trust for these purposes.

21 Any moneys made available to the Trust would be deposited in a  
22 separate nonlapsing revolving fund known as the "Water Supply Trust  
23 Fund." The Trust would have to repay to the "Water Supply Fund" any  
24 moneys made available for temporary use.

25 The bill would also: (1) authorize the DEP and the Trust to collect  
26 administrative fees in administering the respective funds and services  
27 rendered in connection therewith; (2) delegate to DEP responsibility  
28 for administering the Water Supply Fund; (3) authorize the department  
29 and the Trust to use income earned on moneys deposited in their  
30 respective funds to cover unreimbursed administrative expenses; (4)  
31 authorize temporary cross-use by the department and Trust of moneys  
32 in the two funds; and (5) require the department and Trust to provide  
33 annual accounts of moneys expended from their respective funds.

34 The bill also provides that if the "New Jersey Environmental  
35 Infrastructure Trust Act" (a companion measure, Assembly Committee  
36 Substitute for Assembly Bill No. 1960) has not been enacted into law  
37 by the date of the approval of this act by the voters, the amendments  
38 made to the 1981 bond act pertaining to the Trust would remain  
39 inoperative.

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44 Amends and Supplements the "Water Supply Bond Act of 1981."