

ASSEMBLY, No. 431

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY

1 AN ACT to prohibit the imposition of standby fees for automatic
2 sprinkler systems, and amending various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 21 of P.L.1957, c.183 (C.40:14B-21) is amended to
8 read as follows.

9 21. Every municipal authority is hereby authorized to charge and
10 collect rents, rates, fees or other charges (in this act sometimes
11 referred to as "water service charges") for direct or indirect connection
12 with, or the use, products or services of, the water system, or for sale
13 of water or water services, facilities or products. Such water service
14 charges may be charged to and collected from any person contracting
15 for such connection or use, products or services or for such sale or
16 from the owner or occupant, or both of them, of any real property
17 which directly or indirectly is or has been connected with the water
18 system or to which directly or indirectly has been supplied or furnished
19 such use, products or services of the water system or water or water
20 services, facilities or products, and the owner of any such real property
21 shall be liable for and shall pay such water service charges to the
22 municipal authority at the time when and place where such water
23 service charges are due and payable. Such rents, rates, fees and
24 charges shall as nearly as the municipal authority shall deem
25 practicable and equitable be uniform throughout the district for the
26 same type, class and amount of use, products or services of the water
27 system, and may be based or computed either on the consumption of
28 water on or in connection with the real property, or on the number and
29 kind of water outlets on or in connection with the real property, or on
30 the number and kind of plumbing fixtures or facilities on or in
31 connection with the real property, or on the number of persons
32 residing or working on or otherwise connected or identified with the

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 real property, or on the capacity of the improvements on or connected
2 with the real property, or on any other factors determining the type,
3 class and amount of use, products or services of the water system
4 supplied or furnished, or on any combination of such factors, and may
5 give weight to the characteristics of the water or water services,
6 facilities or products and, as to service outside the district, any other
7 matter affecting the cost of supplying or furnishing the same, including
8 the cost of installation of necessary physical properties.

9 In addition to any such water service charges, a separate charge in
10 the nature of a connection fee or tapping fee, in respect of each
11 connection of any property with the water system, may be imposed
12 upon the owner or occupant of the property so connected. Such
13 connection charges shall be uniform within each class of users and the
14 amount thereof shall not exceed the actual cost of the physical
15 connection, if made by the authority, plus an amount computed in the
16 following manner to represent a fair payment toward the cost of the
17 system:

18 a. The amount representing all debt service, including but not
19 limited to sinking funds, reserve funds, the principal and interest on
20 bonds, and the amount of any loans and interest thereon, paid by a
21 municipal authority to defray the capital cost of developing the system
22 as of the end of the immediately preceding fiscal year of the authority
23 shall be added to all capital expenditures made by the authority not
24 funded by a bond ordinance or debt for the development of the system
25 as of the end of the immediately preceding fiscal year of the authority.

26 b. Any gifts, contributions or subsidies to the authority received
27 from, and not reimbursed or reimbursable to any federal, State, county
28 or municipal government or agency or any private person, and that
29 portion of amounts paid to the authority by a public entity under a
30 service agreement or service contract which is not repaid to the public
31 entity by the authority, shall then be subtracted.

32 c. The remainder shall be divided by the total number of service
33 units served by the authority at the end of the immediately preceding
34 fiscal year of the authority, and the results shall then be apportioned
35 to each new connector according to the number of service units
36 attributed to that connector, to produce the connector's contribution
37 to the cost of the system. In attributing service units to each
38 connector, the estimated average daily flow of water for the connector
39 shall be divided by the average daily flow of water to the average
40 single family residence in the authority's district, to produce the
41 number of service units to be attributed.

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

1 connection fee or tapping fee and the aforesaid water service charges
2 shall meet the requirements of section 23 of P.L.1957, c.183
3 (C.40:14B-23). The foregoing notwithstanding, no municipal
4 authority shall impose any charges or fees in excess of the cost of
5 water actually used for any automatic sprinkler system [required to be
6 installed in any residential health care facility pursuant to the "Health
7 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and
8 regulations promulgated thereunder or in any rooming or boarding
9 house pursuant to the "Rooming and Boarding House Act of 1979,"
10 P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated
11 thereunder]. Nothing in this amendatory act shall preclude any
12 municipal authority from charging for the actual cost of water main
13 connection required for the installation of an automatic sprinkler
14 system.

15 (cf: P.L.1985, c.526, s.2)

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17 2. R.S.40:62-127 is amended to read as follows:

18 40:62-127. Such commission may prescribe and change from time
19 to time rates to be charged for water supplied by the waterworks so
20 acquired, and by any extension or enlargement thereof, but rates for
21 the same kind or class of service shall be uniform in all the
22 municipalities supplied by the waterworks; except that no rates shall
23 include the imposition of any fees in excess of the cost of water
24 actually used for any automatic sprinkler system [required to be
25 installed in any residential health care facility pursuant to the "Health
26 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.)
27 and regulations promulgated thereunder or in any rooming or boarding
28 house pursuant to the "Rooming and Boarding House Act of 1979,"
29 P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated
30 thereunder]. Nothing in this amendatory act shall preclude any
31 commission from charging for the actual cost of water main
32 connection required for the installation of an automatic sprinkler
33 system.

34 The supplying of water to locations beyond the boundaries of the
35 municipalities owning the waterworks shall be basis for separate
36 classification of service to permit reasonable differentiation of rates.
37 As soon as practicable after acquiring the waterworks, rates shall be
38 prescribed, and shall be revised from time to time whenever necessary,
39 so that the waterworks shall be self-supporting, the earnings to be
40 sufficient to provide for all expenses of operation and maintenance and
41 such charges as interest, sinking fund and amortization, so as to
42 prevent any deficit to be paid by taxation from accruing. The interest,
43 sinking fund and amortization shall be construed to include:

44 a. All service on debt heretofore or hereafter incurred by the
45 commission or by any municipality represented by the commission in
46 connection with the acquisition of such privately-owned waterworks,

1 and any extensions thereto and enlargements thereof, heretofore or
2 hereafter formally assumed by the commission or its successors, and
3 b. All service on debt heretofore or hereafter incurred by the
4 commission or by a municipality represented by the commission, or its
5 successors, and heretofore or hereafter formally assumed by the
6 commission, or its successors, as part of any agreement with the
7 municipality relative to the acquisition, by the commission, or its
8 successors, of the ownership of or the management and control of or
9 the right to use any water supply or part thereof or interest therein or
10 any distribution system of water mains and connections, or any part
11 thereof, which any such municipality may own or control.

12 The provisions of this section shall be deemed a contract with the
13 holders of all obligations which shall be or may have been issued for
14 the purpose of financing such acquisitions or which heretofore have
15 been or may hereafter be issued to refund temporary bonds or
16 obligations issued for such purposes, the payment of any of which
17 obligations, and interest thereon, the commission, or its successors,
18 has heretofore or may hereafter formally assume as aforesaid.

19 The commission and any succeeding commission may prescribe,
20 and alter and enforce all reasonable rules and regulations for the
21 maintenance and operation of the waterworks and the collection of
22 rates.

23 (cf: P.L.1991, c.162, s.2)

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25 3. R.S.40:62-139 is amended to read as follows:

26 40:62-139. The commission may enter into a contract with any
27 person to supply such person with water for fire protection;
28 manufacturing and irrigation and other special purposes, at rates and
29 upon conditions to be designated by the commission. Thereupon such
30 person shall pay to the commission the rate and all other charges
31 stipulated therein, instead of the usual rates charged to other
32 customers of the commission; except that no rates or charges shall
33 include the imposition of any fees in excess of the cost of water
34 actually used for any automatic sprinkler system [required to be
35 installed in any residential health care facility pursuant to the "Health
36 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and
37 regulations promulgated thereunder or in any rooming or boarding
38 house pursuant to the "Rooming and Boarding House Act of 1979" ,
39 P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated
40 thereunder]. Nothing in this amendatory act shall preclude any
41 commission from charging for the actual cost of water main
42 connection required for the installation of an automatic sprinkler
43 system. Nothing herein contained shall alter or affect the lien
44 hereinafter imposed for unpaid water rents or rates, nor change the
45 rights of the commission to collect unpaid water rates or rents in

1 accordance with the provisions hereof.

2 (cf: P.L.1981, c.514, s.4)

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4 4. N.J.S.40A:31-10 is amended to read as follows:

5 40A:31-10. After the commencement of operation of water supply
6 facilities, the local unit or units may prescribe and, from time to time,
7 alter rates or rentals to be charged to users of water supply services.
8 Rates or rentals being in the nature of use or service charges or annual
9 rental charges, shall be uniform and equitable for the same type and
10 class of use or service of the facilities. Rates or rentals and types and
11 classes of use and service may be based on any factors which the
12 governing body or bodies of that local unit or units shall deem proper
13 and equitable within the region served.

14 In fixing rates, rental and other charges for supplying water
15 services, the local unit or units shall establish a rate structure that
16 allows, within the limits of any lawful covenants made with
17 bondholders, the local unit to:

18 a. Recover all costs of acquisition, construction or operation,
19 including the costs of raw materials, administration, real or personal
20 property, maintenance, taxes, debt service charges, fees and an amount
21 equal to any operating budget deficit occurring in the immediately
22 preceding fiscal year;

23 b. Establish a surplus in an amount sufficient to provide for the
24 reasonable anticipation of any contingency that may affect the
25 operation of the utility, and, at the discretion of the local unit or units,
26 allow for the transfer of moneys from the budget for the water supply
27 facilities to the local budget in accordance with section 5 of P.L.1983,
28 c.111 (C.40A:4-35.1).

29 No local unit or units shall, however, impose any rates or rentals in
30 excess of the cost of water actually used for any automatic sprinkler
31 system [required to be installed in any residential health care facility
32 pursuant to the "Health Care Facilities Planning Act," P.L.1979, c.136
33 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any
34 rooming or boarding house pursuant to the "Rooming and Boarding
35 House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and
36 regulations promulgated thereunder]. Nothing shall preclude a local
37 unit or units from charging for the actual cost of a water main
38 connection required for the installation of an automatic sprinkler
39 system.

40 (cf: N.J.S.40A:31-10)

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42 5. R.S.48:19-18 is amended to read as follows:

43 48:19-18. Each water company organized under the laws of this
44 State may sell and dispose of the water issuing from its reservoirs,
45 aqueducts or pipes for such rates and pursuant to such terms and
46 conditions as are in accordance with its approved tariffs on file with

1 the [Board of Public Utilities] Board of Regulatory Commissioners;
2 except that no tariff shall be approved that provides for or allows the
3 imposition of any fees in excess of the cost of water actually used for
4 any automatic sprinkler system [required to be installed in any
5 residential health care facility pursuant to the "Health Care Facilities
6 Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations
7 promulgated thereunder or in any rooming or boarding house pursuant
8 to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496
9 (C.55:13B-1 et al.) and regulations promulgated thereunder]. Nothing
10 in this amendatory act shall preclude any water company from
11 charging for the actual cost of water main connection required for the
12 installation of an automatic sprinkler system.

13 (cf: P.L.1981, c.514, s.1)

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15 6. This act shall take effect immediately.

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18 STATEMENT

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20 This bill prohibits water companies and authorities in the State from
21 charging a fee for standby water service to property owners whose
22 buildings are equipped with automatic sprinkler systems. The bill
23 permits water companies to charge a property owner for the actual
24 costs of the water main connection necessary for the installation of the
25 sprinkler system but does not permit them to charge any other fees in
26 excess of the cost of water actually used for the sprinkler system.

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31 Prohibits imposition by water companies or authorities of standby fees
32 for automatic sprinkler systems.