

ASSEMBLY, No. 1512

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1996

By Assemblywoman MYERS and Assemblyman BUCCO

1 **AN ACT** amending the "Stormwater Management and Combined
2 Sewer Overflow Abatement Bond Act of 1989" to authorize the
3 Department of Environmental Protection and the New Jersey
4 Environmental Infrastructure Trust to use bond moneys therefrom
5 to make low or zero interest loans to local government units for
6 financing the construction of stormwater management and
7 combined sewer overflow abatement projects; providing for the
8 submission of this amendatory act to the people at a general
9 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.1989, c.181 is amended to read as follows:

15 3. As used in this act:

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

18 "Combined sewer system" means a [wastewater treatment system
19 that carries both wastewater and stormwater runoff] sewer system
20 designed to carry sanitary sewage at all times, which is also designed
21 to collect and transport stormwater runoff from streets and other
22 sources, thereby serving a combined purpose;

23 "Combined sewer overflow" means the discharge of untreated or
24 partially treated stormwater runoff and wastewater from a combined
25 sewer into a body of water;

26 "Commission" means the New Jersey Commission on Capital
27 Budgeting and Planning;

28 "Commissioner" means the Commissioner of Environmental
29 Protection;

30 "Construction" means, in addition to the usual meaning thereof, acts
31 of construction, reconstruction, improvement, rehabilitation,
32 relocation, demolition, renewal, repair, replacement, extension,
33 improvement, and betterment;

34 "Cost" means the expenses incurred in connection with: the

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 acquisition by purchase, lease, or otherwise, and the construction of
2 a project authorized by this act; the acquisition by purchase, lease, or
3 otherwise, and the development of any real or personal property for
4 use in connection with a project authorized by this act, including any
5 rights or interests therein; the execution of any agreements and
6 franchises deemed by the department to be necessary or useful and
7 convenient in connection with any project authorized by this act; the
8 procurement of engineering, inspection, planning, legal, financial, or
9 other professional services, including the services of a bond registrar
10 or an authenticating agent; the issuance of bonds, or any interest or
11 discount thereon; the administrative, organizational, operating, or
12 other expenses incident to the financing, completing, and placing into
13 service of any project authorized by this act; the establishment of a
14 reserve fund or funds for working capital, operating, maintenance, or
15 replacement expenses and for the payment or security of principal or
16 interest on bonds, as the Director of the Division of Budget and
17 Accounting in the Department of the Treasury may determine; and
18 reimbursement to any fund of the State of moneys which may have
19 been transferred or advanced therefrom to any fund created by this act,
20 or of any moneys which may have been expended therefrom for, or in
21 connection with, any project authorized by this act;

22 "Department" means the Department of Environmental Protection;

23 "Government securities" means any bonds or other obligations
24 which as to principal and interest constitute direct obligations of, or
25 are unconditionally guaranteed by, the United States of America,
26 including obligations of any federal agency, to the extent those
27 obligations are unconditionally guaranteed by the United States of
28 America, and any certificates or any other evidences of an ownership
29 interest in those obligations of, or unconditionally guaranteed by, the
30 United States of America or in specified portions which may consist
31 of the principal of, or the interest on, those obligations;

32 "Local government unit" means a county, municipality, municipal
33 or county sewerage authority or utilities authority, municipal sewerage
34 district, joint meeting or any other political subdivision of the State
35 authorized pursuant to law to construct, operate or maintain a
36 stormwater management system or a combined sewer system;

37 "Project" means any work relating to any of the stormwater
38 management or combined sewer overflow abatement projects
39 identified in the stormwater management and combined sewer
40 overflow abatement project priority list adopted by the commissioner
41 pursuant to section 28 of [this act] P.L.1989, c.181;

42 "Stormwater management system" means any equipment, plants,
43 structures, machinery, apparatus, management practices, or land, or
44 any combination thereof, acquired, used, constructed, implemented or
45 operated by a local government unit to prevent nonpoint source
46 pollution, abate improper cross-connections and interconnections

1 between stormwater and sewer systems, minimize stormwater runoff,
2 reduce soil erosion, or induce groundwater recharge, or any
3 combination thereof;

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

7 "Wastewater" means residential, commercial, industrial, or
8 agricultural liquid waste, sewage, or any combination thereof, or other
9 liquid residue discharged or collected into a sewer system or
10 stormwater [runoff] management system, or any combination thereof;
11 and

12 "Wastewater treatment system" means any equipment, plants,
13 structures, machinery, apparatus, or land, or any combination thereof,
14 acquired, used, constructed or operated by a local government unit for
15 any or all of the following: the storage, collection, reduction,
16 recycling, reclamation, disposal, separation, or other treatment of
17 wastewater or sewage sludge; the collection or treatment, or both, of
18 stormwater runoff and wastewater; or the final disposal of residues
19 resulting from the treatment of wastewater, including, but not limited
20 to, pumping and ventilating stations, treatment plants and works,
21 connections, outfall sewers, interceptors, trunk lines, stormwater
22 [runoff collection] management systems, and other personal property
23 and appurtenances necessary for their use or operation.

24 (cf: P.L.1989, c.181, s.3)

25

26 2. Section 5 of P.L.1989, c.181 is amended to read as follows:

27 5. a. Bonds of the State of New Jersey are authorized to be issued
28 in the aggregate principal amount of \$50,000,000 for the [purpose]
29 purposes of (1) providing grants to local government units for
30 financing the costs of the mapping, planning or designing of
31 stormwater management and combined sewer overflow abatement
32 projects; and (2) making loans to local government units for financing
33 the costs of stormwater management and combined sewer overflow
34 abatement projects, all as identified pursuant to the stormwater
35 management and combined sewer overflow abatement project priority
36 list adopted by the commissioner pursuant to section 28 of this act.
37 [The rate of interest on loans to local government units for projects
38 shall be 2% per annum.]

39 b. Of the total principal amount authorized pursuant to subsection
40 a. of this section:

41 (1) Not less than \$45,000,000 is allocated to the department for
42 the purposes of (a) providing grants to local government units for
43 financing the costs of the mapping, planning or designing of
44 stormwater management and combined sewer overflow abatement
45 projects; and (b) making low or zero interest loans to local
46 government units for financing the costs of stormwater management

1 and combined sewer overflow abatement projects, all as designated
2 and authorized pursuant to section 28 of P.L.1989, c.181; and

3 (2) No more than \$5,000,000 is allocated for payment to, and use
4 by, the trust in establishing reserves and providing loan guarantees in
5 accordance with paragraph (2) of subsection a. of section 15 of
6 P.L.1989, c.181.

7 If the "New Jersey Environmental Infrastructure Trust Act" (before
8 the Legislature as Assembly Bill No. of 1996) has not been enacted
9 into law by the date of the approval of this act by the voters, the bonds
10 allocated pursuant to paragraph (2) of this subsection shall be
11 allocated with the bonds allocated pursuant to paragraph (1) of this
12 subsection, and subsection b. of section 14 of P.L.1989, c.181 and
13 paragraph (2) of subsection a. of section 15 of P.L.1989, c.181 shall
14 be inoperative.

15 (cf: P.L.1989, c.181, s.5)

16

17 3. Section 10 of P.L.1989, c.181 is amended to read as follows:

18 10. a. The bonds shall recite that they are issued for the purposes
19 set forth in section 5 of [this act] P.L.1989, c.181, that they are issued
20 pursuant to this act, that this act was submitted to the people of the
21 State at the general election held in the month of November, 1989, and
22 that this act was approved by a majority of the legally qualified voters
23 of the State voting thereon at the election. [This recital] The bonds
24 shall also recite, if issued after the effective date of P.L. , c.
25 (before the Legislature as this bill), that the amendments to P.L.1989,
26 c.181 were submitted to the people of the State at the general election
27 held in the month of November, 1996, and were approved by a
28 majority of the legally qualified voters of the State voting thereon.
29 These recitals shall be conclusive evidence of the authority of the State
30 to issue the bonds and their validity. Any bonds containing [this
31 recital] the recitals shall, in any suit, action or proceeding involving
32 their validity, be conclusively deemed to be fully authorized by this act
33 and to have been issued, sold, executed and delivered in conformity
34 herewith and with all other provisions of laws applicable hereto, and
35 shall be incontestable for any cause.

36 b. The bonds shall be issued in those denominations and in the form
37 or forms, whether coupon, fully-registered or book-entry, and with or
38 without provisions for interchangeability thereof, as may be
39 determined by the issuing officials.

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

41

42 4. Section 14 of P.L.1989, c.181 is amended to read as follows:

43 14. a. The proceeds from the sale of the bonds [and any repayment
44 of the principal and interest on loans made to local government units
45 pursuant to this act] allocated pursuant to paragraph (1) of subsection
46 b. of section 5 of P.L.1989, c.181 shall be paid to the State Treasurer

1 [to be held by the State Treasurer] for deposit in a separate nonlapsing
2 revolving fund, which shall be known as the "Stormwater Management
3 and Combined Sewer Overflow Abatement Fund[.]". [The proceeds of
4 this fund shall be deposited in those depositories as may be selected by
5 the State Treasurer to the credit of the fund] for use by the department
6 as hereinafter provided.

7 b. The proceeds from the sale of bonds allocated pursuant to
8 paragraph (2) of subsection b. of section 5 of P.L.1989, c.181 shall be
9 paid to the State Treasurer for deposit in a separate nonlapsing
10 revolving fund, which shall be known as the "Stormwater Management
11 and Combined Sewer Overflow Abatement Trust Fund," for use by the
12 trust as hereinafter provided.

13 (cf. P.L.1989, c.181, s.14)

14

15 5. Section 15 of P.L.1989, c.181 is amended to read as follows:

16 15. a. (1) The moneys in the "Stormwater Management and
17 Combined Sewer Overflow Abatement Fund" are specifically dedicated
18 and shall be applied to the [cost of the purposes set forth in section 5
19 of this act] financing of the costs of stormwater management and
20 combined sewer overflow abatement projects designated and
21 authorized pursuant to section 28 of P.L.1989, c.181. However, no
22 moneys in the fund shall be expended for those purposes, except as
23 otherwise authorized by this act, without the specific appropriation
24 thereof by the Legislature, but bonds may be issued as herein provided,
25 notwithstanding that the Legislature shall not have then adopted an act
26 making a specific appropriation of any of the moneys. Any act
27 appropriating moneys from the "Stormwater Management and
28 Combined Sewer Overflow Abatement Fund" shall identify the project
29 to be funded by the moneys.

30 Payments of principal and interest on loans made from the
31 "Stormwater Management and Combined Sewer Overflow Abatement
32 Fund" shall be returned to that fund for use for any authorized purpose
33 to which moneys in the fund may be used pursuant to P.L.1989, c.181.
34 Moneys in the "Stormwater Management and Combined Sewer
35 Overflow Abatement Fund" may be made available to the trust, with
36 the concurrence of the department, for temporary use by the trust for
37 any of the purposes set forth in paragraph (2) of this subsection, under
38 terms and conditions established therefor by the commissioner and the
39 trust and approved by the State Treasurer.

40 The trust shall repay to the "Stormwater Management and
41 Combined Sewer Overflow Abatement Fund" any sums made available
42 for temporary use. Repayment shall be in accordance with the terms
43 and conditions approved therefor.

44 (2) The moneys in the "Stormwater Management and Combined
45 Sewer Overflow Abatement Trust Fund" are specifically dedicated and
46 allocated to, and shall be applied to the cost of, the establishment by

1 the trust of reserve and loan guarantee accounts within that fund. The
2 reserve account is to be used to secure debt issued by the trust
3 pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.); and the guarantee
4 account is to be used by the trust to secure debt issued by a local
5 government unit. The trust shall not directly or indirectly use any
6 moneys paid to it pursuant to this paragraph for the purpose of issuing
7 a loan guarantee in connection with the financing of a stormwater
8 management or combined sewer overflow abatement project, unless
9 the project, and the amount and the terms or conditions of the loan
10 guarantee, shall have been approved by the Legislature. Moneys in the
11 reserve and loan guarantee accounts may be made available to the
12 department, with the concurrence of the trust, for temporary use by
13 the department in implementing the provisions of P.L.1989, c.181,
14 under terms and conditions established therefor by the commissioner
15 and the trust and approved by the State Treasurer. The department
16 shall repay to the "Stormwater Management and Combined Sewer
17 Overflow Abatement Trust Fund" any sums made available for
18 temporary use. Repayment shall be in accordance with the terms and
19 conditions approved therefor.

20 (3) Moneys in the "Stormwater Management and Combined Sewer
21 Overflow Abatement Fund" may be transferred to the trust for use as
22 set forth in paragraph (2) of this subsection.

23 b. At any time prior to the issuance and sale of bonds under this
24 act, the State Treasurer is authorized to transfer from any available
25 moneys in any fund of the treasury of the State to the credit of the
26 "Stormwater Management and Combined Sewer Overflow Abatement
27 Fund" or the "Stormwater Management and Combined Sewer
28 Overflow Abatement Trust Fund" those sums as the State Treasurer
29 may deem necessary. The sums so transferred shall be returned to the
30 same fund of the treasury of the State by the State Treasurer from the
31 proceeds of the sale of the first issue of bonds.

32 c. Pending their application to the purposes provided in this act,
33 the moneys in the "Stormwater Management and Combined Sewer
34 Overflow Abatement Fund" may be invested and reinvested as are
35 other trust funds in the custody of the State Treasurer, in the manner
36 provided by law, and moneys in the "Stormwater Management and
37 Combined Sewer Overflow Abatement Trust Fund" may be invested
38 and reinvested by the trust as are other trust funds in the custody of
39 the [State Treasurer, in the manner provided by law] trust.

40 Net earnings received from the investment or deposit of moneys in
41 the "Stormwater Management and Combined Sewer Overflow
42 Abatement Fund" shall be paid [into the General Fund] to that fund for
43 use by the department to cover administrative expenses incurred in
44 administering that fund, and net earnings received from the investment
45 or deposit of moneys in the "Stormwater Management and Combined
46 Sewer Overflow Abatement Trust Fund" shall be paid to that fund for

1 use by the trust to cover administrative expenses incurred in
2 administering that fund. Any moneys not required for administrative
3 expenses shall be used for any other authorized purpose to which
4 moneys in the respective funds may be used.

5 d. The department and the trust may charge and collect annually
6 from local government units fees and charges in connection with any
7 loans, guarantees or other services provided by the department or the
8 trust, in amounts sufficient to reimburse the department or the trust for
9 all reasonable costs necessarily incurred in connection therewith, and
10 in connection with the establishment and maintenance of reserve or
11 other funds, as the department or trust may determine to be
12 reasonable.

13 (cf: P.L.1989, c.181, s.15)

14

15 6. Section 28 of P.L.1989, c.181 is amended to read as follows:

16 28. The commissioner shall [for each fiscal year], on or before
17 January 15 of each year, develop and submit to the Legislature a
18 priority system for stormwater management system and combined
19 sewer overflow abatement projects and shall establish the ranking
20 criteria and funding policies for the projects therefor. The
21 commissioner shall set forth a stormwater management system and
22 combined sewer overflow abatement project priority list for funding
23 for each fiscal year and shall include the aggregate amount of funds to
24 be authorized for these purposes. No [monies] moneys shall be
25 expended for grants or loans in a fiscal year for any stormwater
26 management system or combined sewer overflow abatement project
27 unless the expenditure is authorized pursuant to an appropriations act.
28 As part of the annual submission required by this subsection, the
29 department and the trust shall each provide a financial accounting of
30 all project expenditures made in the preceding year, and of all
31 administrative expenses incurred by the department and the trust from
32 interest earnings from the "Stormwater Management and Combined
33 Sewer Overflow Abatement Fund" and the "Stormwater Management
34 and Combined Sewer Overflow Abatement Trust Fund" in connection
35 therewith.

36 (cf: P.L.1989, c.181, s.28)

37

38 7. Section 29 of P.L.1989, c.181 is amended to read as follows:

39 29. Not less than 30 days prior to entering into any contract, lease,
40 obligation, or agreement to effectuate the purposes of this act, the
41 [commissioner] commissioner or the trust shall report to and consult
42 with the Joint Budget Oversight Committee, or its successor.

43 (cf: P.L.1989, c.181, s.29)

44

45 8. Section 30 of P.L.1989, c.181 is amended to read as follows:

46 30. All appropriations from the [bond fund] "Stormwater

1 Management and Combined Sewer Overflow Abatement Fund" shall
2 be by specific allocation for each project, and any transfer of any funds
3 so appropriated shall require the approval of the Joint Budget
4 Oversight Committee or its successor.

5 (cf: P.L.1989, c.181, s.30)

6

7 9. (New section) For the purpose of complying with the provisions
8 of the State Constitution, this act shall be submitted to the people at
9 the general election to be held in the month of November, 1996. To
10 inform the people of the contents of this act, it shall be the duty of the
11 Secretary of State, after this section takes effect, and at least 60 days
12 prior to the election, to cause this act to be published at least once in
13 one or more newspapers of each county, if any newspapers are
14 published therein, and to notify the clerk of each county of this State
15 of the passage of this act; and the clerks respectively, in accordance
16 with the instructions of the Secretary of State, shall have printed on
17 each of the ballots the following:

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

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

22 If voting machines are used, a vote of "Yes" or "No" shall be
23 equivalent to these markings respectively.

1		STORMWATER MANAGEMENT AND COMBINED SEWER OVERFLOW ABATEMENT BOND ISSUE
2	YES	<p>Shall the amendments to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," which authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to use such bonds to make low or zero interest loans to local governments for financing the cost of stormwater management and combined sewer overflow abatement projects, and to establish reserve and guarantee accounts in conjunction therewith, be approved?</p>
3	NO	<p>INTERPRETIVE STATEMENT</p> <p>Approval of the amendments to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," would authorize the use of moneys from bonds issued pursuant to that act to make low or zero interest loans to local governments, and to establish reserve and guarantee accounts in conjunction therewith. The loans are to be used to finance the costs of projects to manage stormwater and to abate overflows of combined wastewater and stormwater sewers in order to minimize or prevent certain discharges of pollutants into the State's waters. Authorization for the issuance of the bonds was approved by the voters in 1989. The proposed revisions to the bond act under this act authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to administer a combined loan and loan guarantee program for stormwater management and combined sewer overflow abatement projects.</p> <p>Approval of these revisions to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" would not involve any new State bonded indebtedness.</p>

1 The fact and date of the approval or passage of this act, as the case
2 may be, may be inserted in the appropriate place after the title in the
3 ballot. No other requirements of law of any kind or character as to
4 notice or procedure, except as herein provided, need be adhered to.

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

15

16 10. (New section) There is appropriated, from the General Fund,
17 the sum of \$5,000 to the Department of State for expenses in
18 connection with the publication of the notice required pursuant to
19 section 9 of P.L. , c. (before the Legislature as this bill).

20

21 11. Sections 9 and 10 of this act shall take effect immediately, and
22 the remainder of the act shall take effect as and when provided in
23 section 9 of this act.

24

25

STATEMENT

27

The bill amends the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181) to permit the Department of Environmental Protection (DEP) and the New Jersey Environmental Infrastructure Trust (Trust) to use the bond moneys to make low interest loans to local governments for stormwater management and overflow abatement projects. The 1989 bond act was approved in November, 1989 by the voters of New Jersey. The bill's proposed changes to that act must also be approved by the electorate. The ballot question is to be submitted for approval at the general election to be held in November, 1996.

38 The bill provides that the \$50,000,000 authorized by P.L.1989,
39 c.181 would be used for the purposes of (1) providing grants to local
40 governments for financing the costs of the mapping, planning or
41 designing of stormwater management and combined sewer overflow
42 abatement projects; and (2) making loans to local governments for
43 financing the costs of stormwater management and combined sewer
44 overflow abatement projects, all as identified pursuant to the
45 stormwater management and combined sewer overflow abatement
46 project priority list to be adopted by the Commissioner of DEP

1 pursuant to section 28 of P.L.1989, c.181, as amended by the bill.

2 The bill provides for two separate, nonlapsing revolving funds: the
3 "Stormwater Management and Combined Sewer Overflow Abatement
4 Fund" and the "Stormwater Management and Combined Sewer
5 Overflow Abatement Trust Fund."

6 Not less than \$45,000,000 is to be deposited in the "Stormwater
7 Management and Combined Sewer Overflow Abatement Fund" and
8 allocated to the DEP for the purposes of (1) providing grants to local
9 governments for financing the costs of the mapping, planning or
10 designing of stormwater management and combined sewer overflow
11 abatement projects; and (2) making low or zero interest loans to local
12 governments for financing the costs of stormwater management and
13 combined sewer overflow abatement projects.

14 Up to \$5,000,000 is to be deposited into the "Stormwater
15 Management and Combined Sewer Overflow Abatement Trust Fund,"
16 with moneys in that fund to be used by the Trust to establish a reserve
17 account for loans made by the Trust, and a guarantee account to
18 secure debt issued by local governments in connection with the
19 financing of a project.

20 The bill also: (1) authorizes DEP and the Trust to collect
21 administrative fees in administering the respective funds and services
22 rendered in connection therewith; (2) delegates to DEP responsibility
23 for administering the "Stormwater Management and Combined Sewer
24 Overflow Abatement Fund;" (3) authorizes DEP and the Trust to use
25 income earned on moneys deposited in their respective funds to cover
26 unreimbursed administrative expenses; (4) authorizes temporary
27 cross-use by the DEP and Trust of moneys in the two funds; and (5)
28 requires DEP and the Trust to provide annual accounts of moneys
29 expended from their respective funds.

30 The bill also provides that if the "New Jersey Environmental
31 Infrastructure Trust Act" (a companion measure, Assembly
32 Bill No.) has not been enacted into law by the date of the approval
33 of this act by the voters, the amendments made to the 1989 bond act
34 pertaining to the Trust would remain inoperative.

35

36

37

38

39 Amends the "Stormwater Management and Combined Sewer Overflow
40 Abatement Bond Act of 1989."