

[Third Reprint]
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 ¹grants or¹ low or zero interest loans to local government
6 units for 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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAW committee amendments adopted February 22, 1996.

² Assembly AAP committee amendments adopted May 13, 1996.

³ Assembly floor amendments adopted September 26, 1996.

1 of construction, reconstruction, improvement, rehabilitation,
2 relocation, demolition, renewal, repair, replacement, extension,
3 improvement, and betterment;

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

26 "Department" means the Department of Environmental Protection;

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

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

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

46 "Stormwater management system" means any equipment, plants,

1 structures, machinery, apparatus, management practices, or land, or
2 any combination thereof, acquired, used, constructed, implemented or
3 operated by a local government unit to prevent nonpoint source
4 pollution, abate improper cross-connections and interconnections
5 between stormwater and sewer systems, minimize stormwater runoff,
6 reduce soil erosion, or induce groundwater recharge, or any
7 combination thereof;

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

11 "Wastewater" means residential, commercial, industrial, or
12 agricultural liquid waste, sewage, or any combination thereof, or other
13 liquid residue discharged or collected into a sewer system or
14 stormwater [runoff] management system, or any combination thereof;
15 and

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

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

29

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

31 5. a. Bonds of the State of New Jersey are authorized to be issued
32 in the aggregate principal amount of \$50,000,000 for the [purpose]
33 purposes of ¹(1) providing grants to local government units for
34 financing the costs of the mapping, planning or designing of
35 stormwater management and combined sewer overflow abatement
36 projects; and (2) making loans to local government units for financing]
37 providing grants or loans to local government units for¹the costs of
38 stormwater management and combined sewer overflow abatement
39 projects, all as identified pursuant to the stormwater management and
40 combined sewer overflow abatement project priority list adopted by
41 the commissioner pursuant to section 28 of this act. [The rate of
42 interest on loans to local government units for projects shall be 2% per
43 annum.]

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

46 (1) Not less than \$45,000,000 is allocated to the department for

1 the purposes of ¹[(a) providing grants to local government units for
2 financing the costs of the mapping, planning or designing of
3 stormwater management and combined sewer overflow abatement
4 projects; and (b) making low or zero interest loans to local
5 government units for financing] providing grants or low or zero
6 interest loans to local government units for¹ the costs of stormwater
7 management and combined sewer overflow abatement projects, all as
8 designated and authorized pursuant to section 28 of P.L.1989, c.181;
9 and

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

14 If the "New Jersey Environmental Infrastructure Trust Act" (before
15 the Legislature as Assembly Bill No. ¹1511¹ of 1996) has not been
16 enacted into law by the date of the approval of this act by the voters,
17 the bonds allocated pursuant to paragraph (2) of this subsection shall
18 be allocated with the bonds allocated pursuant to paragraph (1) of this
19 subsection, and subsection b. of section 14 of P.L.1989, c.181 and
20 paragraph (2) of subsection a. of section 15 of P.L.1989, c.181 shall
21 be inoperative.

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

23

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

25 10. a. The bonds shall recite that they are issued for the purposes
26 set forth in section 5 of [this act] P.L.1989, c.181, that they are issued
27 pursuant to this act, that this act was submitted to the people of the
28 State at the general election held in the month of November, 1989, and
29 that this act was approved by a majority of the legally qualified voters
30 of the State voting thereon at the election. [This recital] The bonds
31 shall also recite, if issued after the effective date of P.L. , c.
32 (before the Legislature as this bill), that the amendments to P.L.1989,
33 c.181 were submitted to the people of the State at the general election
34 held in the month of November, ³[1996] 1997³, and were approved by
35 a majority of the legally qualified voters of the State voting thereon.

36 These recitals shall be conclusive evidence of the authority of the State
37 to issue the bonds and their validity. Any bonds containing [this
38 recital] the recitals shall, in any suit, action or proceeding involving
39 their validity, be conclusively deemed to be fully authorized by this act
40 and to have been issued, sold, executed and delivered in conformity
41 herewith and with all other provisions of laws applicable hereto, and
42 shall be incontestable for any cause.

43 b. The bonds shall be issued in those denominations and in the
44 form or forms, whether coupon, fully-registered or book-entry, and
45 with or without provisions for interchangeability thereof, as may be

1 determined by the issuing officials.

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

3

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

5 14. a. The proceeds from the sale of the bonds [and any
6 repayment of the principal and interest on loans made to local
7 government units pursuant to this act] allocated pursuant to paragraph
8 (1) of subsection b. of section 5 of P.L.1989, c.181 shall be paid to the
9 State Treasurer [to be held by the State Treasurer] for deposit in a
10 separate nonlapsing revolving fund, which shall be known as the
11 "Stormwater Management and Combined Sewer Overflow Abatement
12 Fund[.]". [The proceeds of this fund shall be deposited in those
13 depositories as may be selected by the State Treasurer to the credit of
14 the fund] for use by the department as hereinafter provided.

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

21 ²c. The department is authorized to use moneys in the
22 "Stormwater Management and Combined Sewer Overflow Abatement
23 Fund" to cover administrative expenses incurred in implementing the
24 provisions of this act, as amended and supplemented by P.L. , c.
25 (pending in the Legislature as this bill), subject to the annual
26 appropriation thereof by the Legislature.²

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

28

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

30 15. a. (1) The moneys in the "Stormwater Management and
31 Combined Sewer Overflow Abatement Fund" are specifically dedicated
32 and shall be applied to the [cost of the purposes set forth in section 5
33 of this act] financing of the costs of stormwater management and
34 combined sewer overflow abatement projects¹, as set forth in section
35 5 of P.L.1989, c.181, and¹ designated and authorized pursuant to
36 section 28 of P.L.1989, c.181. However, no moneys in the fund shall
37 be expended for those purposes, except as otherwise authorized by
38 this act, without the specific appropriation thereof by the Legislature,
39 but bonds may be issued as herein provided, notwithstanding that the
40 Legislature shall not have then adopted an act making a specific
41 appropriation of any of the moneys. Any act appropriating moneys
42 from the "Stormwater Management and Combined Sewer Overflow
43 Abatement Fund" shall identify the project to be funded by the
44 moneys.

45 Payments of principal and interest on loans made from the
46 "Stormwater Management and Combined Sewer Overflow Abatement

1 Fund" shall be returned to that fund for use for any authorized purpose
2 to which moneys in the fund may be used pursuant to P.L.1989, c.181.
3 Moneys in the "Stormwater Management and Combined Sewer
4 Overflow Abatement Fund" may be made available to the trust, with
5 the concurrence of the department, for temporary use by the trust for
6 any of the purposes set forth in paragraph (2) of this subsection, under
7 terms and conditions established therefor by the commissioner and the
8 trust and approved by the State Treasurer.

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

13 (2) The moneys in the "Stormwater Management and Combined
14 Sewer Overflow Abatement Trust Fund" are specifically dedicated and
15 allocated to, and shall be applied to the cost of, the establishment by
16 the trust of reserve and loan guarantee accounts within that fund. The
17 reserve account is to be used to secure debt issued by the trust
18 pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.); and the guarantee
19 account is to be used by the trust to secure debt issued by a local
20 government unit. The trust shall not directly or indirectly use any
21 moneys paid to it pursuant to this paragraph for the purpose of issuing
22 a loan guarantee in connection with the financing of a stormwater
23 management or combined sewer overflow abatement project, unless
24 the project, and the amount and the terms or conditions of the loan
25 guarantee, shall have been approved by the Legislature. Moneys in the
26 reserve and loan guarantee accounts may be made available to the
27 department, with the concurrence of the trust, for temporary use by
28 the department in implementing the provisions of P.L.1989, c.181,
29 under terms and conditions established therefor by the commissioner
30 and the trust and approved by the State Treasurer. The department
31 shall repay to the "Stormwater Management and Combined Sewer
32 Overflow Abatement Trust Fund" any sums made available for
33 temporary use. Repayment shall be in accordance with the terms and
34 conditions approved therefor.

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

38 b. At any time prior to the issuance and sale of bonds under this
39 act, the State Treasurer is authorized to transfer from any available
40 moneys in any fund of the treasury of the State to the credit of the
41 "Stormwater Management and Combined Sewer Overflow Abatement
42 Fund" or the "Stormwater Management and Combined Sewer
43 Overflow Abatement Trust Fund" those sums as the State Treasurer
44 may deem necessary. The sums so transferred shall be returned to the
45 same fund of the treasury of the State by the State Treasurer from the
46 proceeds of the sale of the first issue of bonds.

1 c. Pending their application to the purposes provided in this act,
2 the moneys in the "Stormwater Management and Combined Sewer
3 Overflow Abatement Fund" may be invested and reinvested as are
4 other trust funds in the custody of the State Treasurer, in the manner
5 provided by law, and moneys in the "Stormwater Management and
6 Combined Sewer Overflow Abatement Trust Fund" may be invested
7 and reinvested by the trust as are other trust funds in the custody of
8 the [State Treasurer, in the manner provided by law] trust.

9 Net earnings received from the investment or deposit of moneys in
10 the "Stormwater Management and Combined Sewer Overflow
11 Abatement Fund" shall be paid [into the General Fund] to that fund
12 ¹[for use by the department to cover administrative expenses incurred
13 in administering that fund]¹, and net earnings received from the
14 investment or deposit of moneys in the "Stormwater Management and
15 Combined Sewer Overflow Abatement Trust Fund" shall be paid to
16 that fund for use by the trust to cover administrative expenses incurred
17 in administering that fund. Any moneys not required for administrative
18 expenses shall be used for any other authorized purpose to which
19 moneys in the ¹[respective funds] "Stormwater Management and
20 Combined Sewer Overflow Abatement Trust Fund"¹ may be used .

21 d. The ¹[department and the]¹ trust may charge and collect
22 annually from local government units fees and charges in connection
23 with any loans, guarantees or other services provided by the
24 ¹[department or the]¹ trust, in amounts sufficient to reimburse the
25 ¹[department or the]¹ trust for all reasonable costs necessarily incurred
26 in connection therewith, and in connection with the establishment and
27 maintenance of reserve or other funds, as the ¹[department or]¹ trust
28 may determine to be reasonable.

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

30

31 6. Section 28 of P.L.1989, c.181 is amended to read as follows:
32 28. The commissioner shall [for each fiscal year], on or before
33 January 15 of each year, develop and submit to the Legislature a
34 priority system for stormwater management system and combined
35 sewer overflow abatement projects and shall establish the ranking
36 criteria and funding policies for the projects therefor. The
37 commissioner shall set forth a stormwater management system and
38 combined sewer overflow abatement project priority list for funding
39 for each fiscal year and shall include the aggregate amount of funds to
40 be authorized for these purposes. No [monies] moneys shall be
41 expended for grants or loans in a fiscal year for any stormwater
42 management system or combined sewer overflow abatement project
43 unless the expenditure is authorized pursuant to an appropriations act.
44 As part of the annual submission required by this subsection, the
45 department and the trust shall each provide a financial accounting of
46 all project expenditures made in the preceding year, and of all

1 administrative expenses incurred by the ¹[department and the]¹ trust
2 from interest earnings from the ¹["Stormwater Management and
3 Combined Sewer Overflow Abatement Fund" and the]¹ "Stormwater
4 Management and Combined Sewer Overflow Abatement Trust Fund"
5 in connection therewith.

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

7

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

9 29. Not less than 30 days prior to entering into any contract,
10 lease, obligation, or agreement to effectuate the purposes of this act,
11 the [commissioner] commissioner or the trust shall report to and
12 consult with the Joint Budget Oversight Committee, or its successor.
13 (cf: P.L.1989, c.181, s.29)

14

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

16 30. All appropriations from the [bond fund] "Stormwater
17 Management and Combined Sewer Overflow Abatement Fund" shall
18 be by specific allocation for each project, and any transfer of any funds
19 so appropriated shall require the approval of the Joint Budget
20 Oversight Committee or its successor.

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

22

23 9. (New section) For the purpose of complying with the
24 provisions of the State Constitution, this act shall be submitted to the
25 people at the general election to be held in the month of November,
26 ³[1996]1997³. To inform the people of the contents of this act, it shall
27 be the duty of the Secretary of State, after this section takes effect,
28 and at least 60 days prior to the election, to cause this act to be
29 published at least once in one or more newspapers of each county, if
30 any newspapers are published therein, and to notify the clerk of each
31 county of this State of the passage of this act; and the clerks
32 respectively, in accordance with the instructions of the Secretary of
33 State, shall have printed on each of the ballots the following:

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

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

38 If voting machines are used, a vote of "Yes" or "No" shall be
39 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 ¹<u>grants or</u>¹ low or zero interest loans to local governments for financing the cost of stormwater management and combined sewer overflow abatement projects, ²<u>which authorize the Department to use bond moneys to cover administrative costs incurred therewith, subject to the annual appropriation thereof by the Legislature.</u>² ¹<u>which authorize the Trust to use interest earnings on bond moneys to cover administrative costs incurred therewith,</u>¹ and ¹<u>which authorize the Trust</u>¹ to establish reserve and guarantee accounts in conjunction therewith, be approved?</p>

24

		<p>INTERPRETIVE STATEMENT</p> <p>²[Approval of the amendments to the] <u>If approved, bond moneys in the</u>² "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," ²[would authorize the use of moneys from bonds issued pursuant to that act] <u>could be used</u>² <u>by the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust</u>¹ to make <u>1grants or</u>¹ low or zero interest loans to local governments ²[, <u>1authorize the Trust to use interest earnings on bond moneys to cover its administrative expenses.</u>¹and<u>1authorize the Trust</u>¹to establish reserve and guarantee accounts in conjunction therewith]². The <u>1grants or</u>¹ 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 ²[minimize or prevent certain discharges of] <u>stop or decrease</u>² pollutants <u>2from going</u>² into the State's waters.</p> <p>²[Authorization for the issuance of the bonds was approved by the] <u>The</u> ²voters <u>2approved the original bond act</u> ² in 1989. ²[The proposed revisions to the bond act under this act authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust] <u>These changes would permit the Department and the Trust</u>² to administer a combined loan and loan guarantee program for stormwater management and combined sewer overflow abatement projects. <u>2Also, it is proposed that the Department be permitted to cover its administrative costs out of bond moneys, if the Legislature appropriates the moneys each year, that the Trust be permitted to cover its administrative costs outs of interest earned on bond moneys, and that the Trust be permitted to establish reserve and guarantee accounts for loan moneys.</u>² Approval of these revisions to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" would not involve any new State</p>
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46	NO	

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

26

27

28 Amends the "Stormwater Management and Combined Sewer Overflow
29 Abatement Bond Act of 1989," appropriates \$5,000.