

§23
C. 58:11B-10.1
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C. 58:11B-20.1
§25
C. 58:11B-21.1
§§26,27
C. 58:11B-22.1 &
58:11B-22.2

P.L. 1997, CHAPTER 224, *approved August 20, 1997*
Assembly, No. 1511 (*Second Reprint*)

1 AN ACT concerning the financing of environmental infrastructure
2 projects, and amending and supplementing the title and body of
3 P.L.1985, c.334.
4

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

7
8 1. The title of P.L.1985, c.334 is amended to read as follows:

9 AN ACT establishing the New Jersey [Wastewater Treatment]
10 Environmental Infrastructure Trust, defining the functions, duties
11 and powers thereof, including the authorization to issue bonds,
12 notes and other obligations and to establish any reserve funds
13 necessary therefor, and to make loans to and guarantee debt
14 incurred by local government units for [wastewater treatment
15 system] environmental infrastructure projects.

16 (cf: P.L.1985, c.334, title)
17

18 2. Section 1 of P.L.1985, c.334 (C.58:11B-1) is amended to read
19 as follows:

20 1. This act shall be known and may be cited as the "New Jersey
21 [Wastewater Treatment] Environmental Infrastructure Trust Act."

22 (cf: P.L.1985, c.334, s.1)
23

24 3. Section 2 of P.L.1985, c.334 (C.58:11B-2) is amended to read
25 as follows:

26 2. a. The Legislature finds that the steady deterioration of older
27 sewage and sewer systems and wastewater treatment plants endangers
28 the availability and quality of uncontaminated water resources of the
29 State, thereby posing a grave danger to the health, safety and welfare
30 of the residents of the concerned communities and the State; that 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAW committee amendments adopted February 22, 1996.

² Senate SEN committee amendments adopted December 16, 1996.

1 construction, rehabilitation, operation, and maintenance of modern and
2 efficient sewer systems and wastewater treatment plants are essential
3 to protecting and improving the State's water quality; that in addition
4 to protecting and improving water quality, adequate wastewater
5 treatment systems are essential to economic growth and development;
6 that many of the wastewater treatment systems in New Jersey must be
7 replaced or upgraded if an inexorable decline in water quality is to be
8 avoided during the coming decades; that the United States Congress
9 in recognition of the crucial role wastewater treatment systems and
10 plants play in maintaining and improving water quality, and with an
11 understanding that the cost of financing and constructing these systems
12 must be borne by local governments and authorities with limited
13 sources of revenues, established in the "Federal Water Pollution
14 Control Act Amendments of 1972," P.L.92-500 (33 U.S.C. §1251 et
15 al.) a program to provide local governments with grants for
16 constructing these systems; that during the last several years the
17 amount of federal grant money available to states and local
18 governments for assistance in constructing and improving wastewater
19 treatment systems has sharply diminished; that the current level of
20 federal grant funding is inadequate to meet the cost of upgrading the
21 State's wastewater treatment capacity to comply with State water
22 quality standards; that the collective needs of the State and local
23 governments for capital financing of wastewater treatment systems far
24 exceed the sums of money presently available through revenue
25 initiatives and State and federal aid programs; and that it is fitting and
26 proper for the State to encourage local governments to undertake
27 wastewater treatment projects through the establishment of a State
28 mechanism to provide loans at the lowest reasonable interest rates and
29 to guarantee or insure local capital improvement bonds.

30 b. The Legislature finds that stormwater runoff and combined
31 sewer overflows are among the major sources of ocean pollution,
32 contributing to beach closings; that combined sewer systems discharge
33 untreated wastewater and stormwater into rivers, streams and coastal
34 waters during wet weather, resulting in water pollution; that some
35 combined sewer systems have deteriorated to the point that overflows
36 occur regularly, even during dry weather; that many sewer systems are
37 on inadequate repair and replacement programs, which may cause
38 disturbances at sewage treatment plants; that many municipalities are
39 under building moratoriums due to the inadequacy of their sewage and
40 stormwater collection systems, which severely affect municipal
41 budgets; and that large unmet capital expenses exist for combined
42 sewer system separation and abatement projects.

43 The Legislature further finds that funding at the federal level for
44 wastewater treatment, stormwater management and combined sewer
45 system rehabilitation projects is insufficient; that State funds available
46 for these projects are inadequate to meet current needs; that local

1 revenues are insufficient to meet these expenses; and that additional
2 funding at the State level is necessary to meet this financial obligation.

3 c. ²[The Legislature finds that the proper in-state disposal of solid
4 waste and the maximum practical recovery of recyclable materials from
5 solid waste are matters of basic concern to all citizens of this State,
6 and ensuring the implementation of an efficient solid waste
7 management strategy is a governmental function thoroughly imbued
8 with the public interest; that the continued exportation of a significant
9 portion of New Jersey's solid waste stream to out-of-state disposal
10 sites is a short-sighted expedient; and that for self-evident economic,
11 environmental and public health considerations, it is imperative that
12 the State renew its commitment to, and provide the resources for,
13 achieving self-sufficiency with respect to solid waste disposal.

14 The Legislature further finds that the environmentally sound and
15 proper closure of municipal solid waste landfills, including the
16 remediation of contamination problems posed by terminated but
17 improperly closed municipal landfills, is a governmental function
18 affected with the public interest; that while the "Sanitary Landfill
19 Facility Closure and Contingency Fund Act," P.L.1981, c.306
20 (C.13:1E-100 et seq.) provided a means by which the owners and
21 operators of sanitary landfill facilities would provide financial
22 assurance for proper closure, it provides no funds for municipal solid
23 waste landfills terminated prior to its enactment; ¹that while municipal
24 solid waste landfills located in the Pinelands area were required to
25 terminate operations by August 8, 1990 in accordance with the
26 "National Parks and Recreation Act of 1978" (PL 95-625), the
27 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and
28 the comprehensive management plan prepared and adopted by the
29 Pinelands Commission pursuant thereto, financial assurances for the
30 proper closure of these terminated municipal landfills as required by
31 the "Sanitary Landfill Facility Closure and Contingency Fund Act"
32 were not adequate due to the limited time in which they were accrued; ¹
33 that while the responsibility for the proper closure of municipal solid
34 waste landfills that ceased operating prior to the enactment of
35 P.L.1981, c.306 should ideally rest with the users thereof, the
36 considerable closing costs, including the cost of remediating
37 contamination problems, required to ensure the proper closure of these
38 facilities are, in many cases, beyond the financial capabilities of
39 affected municipalities; that the various environmental problems
40 resulting from terminated municipal landfills, including methane gas
41 migration, soil erosion, and ground and surface water contamination,
42 affect the quality of life of all citizens of this State; and that since the
43 proper closure and post-closure care required at each terminated
44 municipal landfill will ultimately enhance the quality of life of all
45 citizens of New Jersey, the State has the responsibility to provide
46 financial assistance to municipalities to stabilize these costs in an

1 efficient and equitable manner.

2 The Legislature further finds that in many cases it may be beneficial
3 for local governments to mine sanitary landfills for the purposes of (1)
4 extracting materials to be used, reused, recycled, sold or composted;
5 (2) reclaiming land; or (3) recovering landfill disposal capacity; that it
6 is in the public interest for local governments to mine certain sanitary
7 landfills; and that State financial assistance may be necessary for local
8 governments to initiate landfill mining projects.

9 The Legislature therefore determines that it is appropriate for the
10 State to encourage local governments to undertake solid waste
11 management projects, landfill mining projects and the environmentally
12 sound closure of municipal solid waste landfills, including the cost of
13 remediating contamination problems posed by terminated but
14 improperly closed municipal landfills, and in the public interest to
15 establish a State mechanism to provide loans at the lowest reasonable
16 interest rates and to guarantee or insure local capital improvement
17 bonds for these purposes.

18 d.]² The Legislature finds that construction, rehabilitation,
19 operation and maintenance of modern and efficient water supply
20 facilities are essential to protecting and improving the State's water
21 quality; that the citizens of this State, in recognition of the crucial role
22 the construction of new and the upgrading of existing water supply
23 facilities play in maintaining and augmenting the natural water
24 resources of the State, and with an understanding that the cost of
25 financing and constructing these systems is beyond the limited financial
26 resource capabilities of local governments and authorities and must be
27 subsidized by the State and repaid through a system of water supply
28 user charges, approved the enactment of the "Water Supply Bond Act
29 of 1981" (P.L.1981, c.261); that the water supply needs of the State
30 are so great that the funds allocated for this purpose from the "Water
31 Supply Fund" established by that 1981 bond act should be augmented
32 and maximized, to the extent practicable, through the use of
33 alternative methods of State financing to offset the costs of water
34 supply projects and for the construction of new or the rehabilitation of
35 antiquated or inadequate existing water supply facilities²; that the
36 United States Congress in recognition of the essential role that safe
37 drinking water plays in protecting the public health, and with an
38 understanding that financing, constructing and maintaining water
39 systems that meet the requirements of the "Safe Drinking Water Act,"
40 42 U.S.C. §300f et seq. exceed the financial and technical capacity of
41 the operators of some water systems, has established in the "Safe
42 Drinking Water Act Amendments of 1996," P.L.104-182, a program
43 to provide public water systems with financial assistance to meet
44 national primary drinking water regulations or to otherwise further the
45 health protection objectives of the federal law and that the State must,
46 in order to make use of the federal funds, provide State funds for the

1 program; and therefore, State funding for the program is necessary to
2 meet this financial obligation² .

3 ²[e.] d.² The Legislature therefore determines that it is in the
4 public interest to establish a State authority authorized to issue bonds,
5 notes and other obligations and to establish any reserve funds
6 necessary therefor, and to make loans to and guarantee debt incurred
7 by local government units for [wastewater treatment system]
8 environmental infrastructure projects.

9 (cf: P.L.1985, c.334, s.2)

10

11 4. Section 3 of P.L.1985, c.334 (C.58:11B-3) is amended to read
12 as follows:

13 3. As used in [this act] sections 1 through 27 of P.L.1985, c.334
14 (C.58:11B-1 through 58:11B-27) and sections 23 through ²[34] 27²
15 of P.L. , c. (C.)(before the Legislature as this bill):

16 [a.] "Bonds" means bonds issued by the trust pursuant to [this act]
17 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before
18 the Legislature as this bill);

19 ²["Closure" means all activities associated with the design,
20 purchase, construction or maintenance of all measures required by the
21 department, pursuant to law, in order to remediate, prevent, minimize
22 or monitor pollution or health hazards resulting from municipal solid
23 waste landfills subsequent to the termination of operations at any
24 portion thereof, including, but not limited to, the placement of final
25 earthen or vegetative cover, groundwater remediation, the installation
26 of methane gas vents or monitors and leachate monitoring wells or
27 collection systems, and long-term operations and maintenance;]²

28 "Combined sewer system" means a sewer system designed to carry
29 sanitary ²[sewage] wastewater² at all times, which is also designed to
30 collect and transport stormwater runoff from streets and other sources,
31 thereby serving a combined purpose;

32 "Combined sewer overflow" means the discharge of untreated or
33 partially treated stormwater runoff and wastewater from a combined
34 sewer ²system² into a body of water;

35 ²["Commercial solid waste" means any nonhazardous solid waste
36 derived from wholesale, retail or service establishments, including
37 stores, markets, theaters, offices, restaurants, warehouses, or from
38 other non-manufacturing commercial activities;]²

39 [b.] "Commissioner" means the Commissioner of the Department
40 of Environmental Protection;

41 ²["Composting facility" means a solid waste facility at which the
42 organic components of solid waste are processed and separated
43 utilizing manual or mechanical methods and broken down into their
44 chemical elements and compounds to form humus for the purposes of
45 beneficial use or reuse as approved by the department;]²

46

[c.] "Cost" means the cost of all labor, materials, machinery and

1 equipment, lands, property, rights and easements, financing charges,
2 interest on bonds, notes or other obligations, plans and specifications,
3 surveys or estimates of costs and revenues, engineering and legal
4 services, and all other expenses necessary or incident to all or part of
5 [a wastewater treatment system] an environmental infrastructure
6 project;

7 [d.] "Department" means the Department of Environmental
8 Protection;

9 ²["Designated agency" means the public authority, or the
10 department, unit or committee of the county government, which is
11 designated by the board of chosen freeholders to supervise the
12 implementation of the district solid waste management plan pursuant
13 to section 12 of P.L.1975, c.326 (C.13:1E-21), including the
14 implementation of the district recycling plan required pursuant to
15 section 3 of P.L.1987, c.102 (C.13:1E-99.13), and which has statutory
16 power to enter into contracts or agreements and to borrow money;

17 "Environmentally sound sanitary landfill facility" means a sanitary
18 landfill facility that meets State and federal design criteria, and is
19 equipped with a liner or liners, a leachate control and collection
20 system, and a groundwater pollution monitoring system, or any other
21 pollution control or other engineering device required by the
22 department pursuant to law or rule and regulation, and which is
23 identified and included in a district solid waste management plan
24 pursuant to the provisions of the "Solid Waste Management Act,"
25 P.L.1970, c.39 (C.13:1E-1 et seq.);

26 "Household solid waste" means any solid waste derived from
27 households, including but not limited to single and multiple residences,
28 hotels and motels, bunkhouses, ranger stations, crew quarters,
29 campgrounds, picnic grounds and day use recreation areas, except that
30 "household solid waste" shall not include septic waste as defined in
31 section 3 of P.L.1970, c.40 (C.48:13A-3);

32 "Industrial solid waste" means any solid waste derived from
33 manufacturing, industrial and research and development processes and
34 operations that is not a hazardous waste as defined in section 1 of
35 P.L.1976, c.99 (C.13:1E-38), except that "industrial solid waste" shall
36 not include mining waste, oil waste, gas waste, or cement kiln dust
37 waste;

38 "Landfill mining project" means any work relating to the
39 environmentally sound excavation and removal of materials from a
40 sanitary landfill facility for the purposes of recycling, use, reuse, sale,
41 or composting that meets the requirements set forth in sections 25, 26,
42 27 and 33 of P.L. , c. (C.)(before the Legislature as this
43 bill);]²

44 [e.] "Local government unit" means (1) a county, municipality,
45 municipal or county sewerage or utility authority, municipal sewerage
46 district, joint meeting, improvement authority, or any other political

1 subdivision authorized to construct, operate and maintain wastewater
2 treatment systems; ²[(2) a county, designated agency, public authority
3 or any other political subdivision of the State authorized to construct,
4 operate or maintain a resource recovery facility, composting facility,
5 materials recovery facility, recycling center, or an environmentally
6 sound sanitary landfill facility; (3) a county, municipality, designated
7 agency, public authority or any other political subdivision of the State
8 authorized to undertake a landfill mining project or a municipal solid
9 waste landfill closure project, and to borrow money therefor;]² or
10 ²[(4)] (2)² a State authority, district water supply commission, county,
11 municipality, municipal or county utilities authority, municipal water
12 district, joint meeting or any other political subdivision of the State
13 authorized pursuant to law to operate or maintain a public water
14 supply system or to construct, rehabilitate, operate or maintain water
15 supply facilities or otherwise provide water for human consumption;

16 ²["Materials recovery facility" means a transfer station or other
17 authorized solid waste facility at which nonhazardous solid waste,
18 which material is not source separated by the generator thereof prior
19 to collection, is received for onsite processing and separation utilizing
20 manual or mechanical methods for the purposes of recovering
21 compostable, reusable or recyclable materials for disposition and
22 recycling prior to the disposal of the residual solid waste at an
23 authorized solid waste facility;

24 "Municipal solid waste landfill" means a landfill that received for
25 disposal household solid waste and at least one of the following: (1)
26 commercial solid waste; (2) industrial solid waste; or (3) waste
27 material that was received for disposal prior to October 21, 1976 and
28 that is included within the definition of hazardous waste adopted by
29 the federal government pursuant to the "Resource Conservation and
30 Recovery Act," at 42 U.S.C. §6921; except that "municipal solid waste
31 landfill" shall not include any landfill that is approved for disposal of
32 hazardous waste and regulated pursuant to Subchapter III of the
33 "Resource Conservation and Recovery Act," 42 U.S.C. §6921 et seq;

34 "Municipal solid waste landfill closure project" means any work
35 relating to the environmentally sound and proper closure of a
36 municipal solid waste landfill that meets the requirements set forth in
37 sections 25, 26, 27 and 32 of P.L. , c. (C.) (before the
38 Legislature as this bill);]²

39 [f.] "Notes" means notes issued by the trust pursuant to [this act]
40 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before
41 the Legislature as this bill);

42 [g.] "Project" or "environmental infrastructure project" means the
43 acquisition, construction, improvement, repair or reconstruction of all
44 or part of any structure, facility or equipment, or real or personal
45 property necessary for or ancillary to any (1) wastewater treatment
46 system [which meets the requirements set forth in sections 20, 21 and

1 22 of this act] project, including any stormwater management or
2 combined sewer overflow abatement projects; ²[(2) solid waste
3 management project, including any landfill mining project or municipal
4 solid waste landfill closure project;]² or ²[(3)] (2)² water supply
5 project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et
6 seq.) or P.L. , c. (C.)(before the Legislature as this bill);

7 ²["Public authority" means a solid waste management authority
8 created pursuant to the "solid waste management authorities law,"
9 P.L.1968, c.249 (C.40:66A-32 et seq.); a municipal or county utilities
10 authority created pursuant to the "municipal and county utilities
11 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); an incinerator
12 authority created pursuant to the "incinerator authorities law,"
13 P.L.1948, c.348 (C.40:66A-1 et seq.); a county improvement authority
14 created pursuant to the "county improvement authorities law,"
15 P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control financing
16 authority created pursuant to the "New Jersey Pollution Control
17 Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any other
18 public body corporate and politic created for solid waste management
19 purposes in any county or municipality pursuant to the provisions of
20 any law;]²

21 "Public water utility" means any investor-owned water company or
22 small water company that is subject to the jurisdiction or rate
23 regulation of the Board of Public Utilities as a public utility;

24 ²["Recycling center" means any facility designed and operated
25 solely for receiving, storing, processing or transferring source
26 separated recyclable materials;

27 "Resource recovery facility" means a solid waste facility
28 constructed and operated for the incineration of solid waste for energy
29 production and the recovery of metals and other materials for reuse,
30 or a mechanized composting facility, or any other facility constructed
31 or operated for the collection, separation, recycling, and recovery of
32 metals, glass, paper, and other recyclable materials for reuse or for
33 energy production, and which is identified and included in a district
34 solid waste management plan pursuant to the provisions of the "Solid
35 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.);

36 "Sanitary landfill facility" means a solid waste facility at which solid
37 waste is deposited on or in the land as fill for the purpose of
38 permanent disposal or storage for a period exceeding six months,
39 except that it shall not include any waste facility approved for the
40 disposal of hazardous waste;]²

41 "Small water company" means any company, purveyor or entity,
42 other than a governmental agency, that provides water for human
43 consumption and which regularly serves less than 1,000 customer
44 connections;

45 ²["Solid waste management project" means any work relating to the
46 acquisition, construction, improvement, repair or reconstruction of all

1 or part of any structure, facility or equipment, or real or personal
2 property necessary for or ancillary to any resource recovery facility,
3 composting facility, materials recovery facility, recycling center, or
4 environmentally sound sanitary landfill facility that meets the
5 requirements set forth in sections 25, 26 and 27 of P.L. , c.
6 (C.)(before the Legislature as this bill); any work relating
7 to any municipal solid waste landfill closure project that meets the
8 requirements set forth in sections 25, 26, 27 and 32 of P.L. , c.
9 (C.)(before the Legislature as this bill); or any work relating
10 to any landfill mining project that meets the requirements set forth in
11 sections 25, 26, 27 and 33 of P.L. , c. (C.)(before
12 the Legislature as this bill);]²

13 "Stormwater management system" means any equipment, plants,
14 structures, machinery, apparatus, management practices, or land, or
15 any combination thereof, acquired, used, constructed, implemented or
16 operated by a local government unit to prevent nonpoint source
17 pollution, abate improper cross-connections and interconnections
18 between stormwater and sewer systems, minimize stormwater runoff,
19 reduce soil erosion, or induce groundwater recharge, or any
20 combination thereof;

21 [h.] "Trust" means the New Jersey [Wastewater Treatment]
22 Environmental Infrastructure Trust created pursuant to section 4 of
23 [this act] P.L.1985, c.334 (C.58:11B-4);

24 [i.] "Wastewater" means residential, commercial, industrial, or
25 agricultural liquid waste, [sewerage] sewage, septage, stormwater
26 runoff, or any combination thereof, or other liquid residue discharged
27 or collected into a sewer system or stormwater [runoff] management
28 system, or any combination thereof;

29 [j.] "Wastewater treatment system" means any equipment, plants,
30 structures, machinery, apparatus, or land, or any combination thereof,
31 acquired, used, constructed or operated by, or on behalf of, a local
32 government unit for the storage, collection, reduction, recycling,
33 reclamation, disposal, separation, or other treatment of wastewater or
34 sewage sludge, or for the [separate] collection or treatment, or both,
35 of stormwater runoff and [sewerage] wastewater, or for the final
36 disposal of residues resulting from the treatment of wastewater,
37 including, but not limited to, pumping and ventilating stations,
38 treatment plants and works, connections, outfall sewers, interceptors,
39 trunk lines, stormwater [runoff collection] management systems, and
40 other personal property and appurtenances necessary for their use or
41 operation; "wastewater treatment system" shall include a stormwater
42 management system or a combined sewer system;

43 "Wastewater treatment system project" means any work relating to
44 the acquisition, construction, improvement, repair or reconstruction
45 of all or part of any structure, facility or equipment, or real or personal
46 property necessary for or ancillary to any wastewater treatment system

1 that meets the requirements set forth in sections 20, 21 and 22 of
 2 P.L.1985, c.334 (C.58:11B-20, 58:11B-21 and 58:11B-22); or any
 3 work relating to any of the stormwater management or combined
 4 sewer overflow abatement projects identified in the stormwater
 5 management and combined sewer overflow abatement project priority
 6 list adopted by the commissioner pursuant to section 28 of P.L.1989,
 7 c.181; or any work relating to any other project eligible for financing
 8 under the Federal Water Pollution Control Act Amendments of 1972
 9 (33 U.S.C. §1251 et seq.), or any amendatory or supplementary acts
 10 thereto;

11 "Water supply facilities" means and refers to the real property and
 12 the plants, structures, interconnections between existing water supply
 13 facilities, machinery and equipment and other property, real, personal
 14 and mixed, acquired, constructed or operated, or to be acquired,
 15 constructed or operated, in whole or in part, by or on behalf of a
 16 public water utility, or by or on behalf of the State ²[, or of a political
 17 subdivision of the State or any agency thereof] or a local government
 18 unit², for the purpose of augmenting the natural water resources of
 19 the State and making available an increased supply of water for all
 20 uses, or of conserving existing water resources, and any and all
 21 appurtenances necessary, useful or convenient for the collecting,
 22 impounding, storing, improving, treating, filtering, conserving or
 23 transmitting of water, and for the preservation and protection of these
 24 resources and facilities, whether in public or private ownership, and
 25 providing for the conservation and development of future water supply
 26 resources, and facilitating incidental recreational uses thereof;

27 "Water supply project" means any work relating to the acquisition,
 28 construction, improvement, repair or reconstruction of all or part of
 29 any structure, facility or equipment, or real or personal property
 30 necessary for or ancillary to water supply facilities that meets the
 31 requirements set forth in sections ²[28, 29 and 30] 24, 25 and 26² of
 32 P.L. , c. (C.)(before the Legislature as this bill); or any work
 33 relating to the purposes set forth in section 4 of P.L.1981, c.261.

34 (cf: P.L.1985, c.334, s.3)

35

36 5. Section 4 of P.L.1985, c.334 (C.58:11B-4) is amended to read
 37 as follows:

38 4. a. There is established in, but not of, the Department of
 39 Environmental Protection a body corporate and politic, with corporate
 40 succession, to be known as the "New Jersey [Wastewater Treatment]
 41 Environmental Infrastructure Trust." The trust is constituted as an
 42 instrumentality of the State exercising public and essential
 43 governmental functions, no part of whose revenues shall accrue to the
 44 benefit of any individual, and the exercise by the trust of the powers
 45 conferred by [this act] the provisions of P.L.1985, c.334 (C.58:11B-1
 46 et seq.) or P.L. , c. (C.)(before the Legislature as this bill),

1 shall be deemed and held to be an essential governmental function of
2 the State.

3 b. The trust shall consist of a seven-member board of directors
4 composed of the State Treasurer, the Commissioner of the Department
5 of Community Affairs, and the Commissioner of the Department of
6 Environmental Protection, who shall be members *ex officio*; one
7 person appointed by the Governor upon the recommendation of the
8 President of the Senate and one person appointed by the Governor
9 upon the recommendation of the Speaker of the General Assembly,
10 who shall serve during the two-year legislative term in which they are
11 appointed; and two residents of the State appointed by the Governor
12 with the advice and consent of the Senate, who shall serve for terms
13 of four years, except that the first two appointed shall serve terms of
14 two and three years respectively. Each appointed director shall serve
15 until his successor has been appointed and qualified. A director is
16 eligible for reappointment. Any vacancy shall be filled in the same
17 manner as the original appointment, but for the unexpired term only.

18 With respect to those public members first appointed by the
19 Governor, the appointment of each of the two members upon the
20 advice and consent of the Senate shall become effective 30 days after
21 their nomination by the Governor if the Senate has not given advice
22 and consent on those nominations within that time period; the
23 President of the Senate and the Speaker of the General Assembly each
24 shall recommend to the Governor a public member for appointment
25 within 20 days following the effective date of this act, and a
26 recommendation made in this manner shall become effective if the
27 Governor makes the appointment in accordance with the
28 recommendation, in writing, within 10 days of the Governor's receipt
29 thereof. In each instance where the Governor fails to make the
30 appointment, the President of the Senate and the Speaker of the
31 General Assembly shall make new recommendations subject to
32 appointment by the Governor as determined in this section.

33 c. Each appointed director may be removed from office by the
34 Governor for cause, upon the Governor's consideration of the findings
35 and recommendations of an administrative law judge after a public
36 hearing before the judge, and may be suspended by the Governor
37 pending the completion of the hearing. Each director, before entering
38 upon his duties, shall take and subscribe an oath to perform the duties
39 of his office faithfully, impartially and justly to the best of his ability.
40 A record of oaths shall be filed in the office of the Secretary of State.

41 d. The Governor shall designate one of the appointed members to
42 be the chairman and chief executive officer of the trust and the
43 directors shall biannually elect a vice-chairman from among the
44 appointed directors. The chairman shall serve as such for a term of
45 two years and until a successor has been designated. A chairman shall
46 be eligible to succeed himself for one additional two year term. The

1 directors shall elect a secretary and treasurer, who need not be
2 directors, and the same person may be elected to serve as both
3 secretary and treasurer.

4 The powers of the trust are vested in the directors in office from
5 time to time and four directors shall constitute a quorum at any
6 meeting. Action may be taken and motions and resolutions adopted by
7 the trust by the affirmative majority vote of those directors present,
8 but in no event shall any action be taken or motions or resolutions
9 adopted without the affirmative vote of at least four members. No
10 vacancy on the board of directors of the trust shall impair the right of
11 a quorum of the directors to exercise the powers and perform the
12 duties of the trust.

13 e. Each director and the treasurer of the trust shall execute a bond
14 to be conditioned upon the faithful performance of the duties of the
15 director or treasurer in a form and amount as may be prescribed by the
16 State Treasurer. Bonds shall be filed in the office of the Secretary of
17 State. At all times thereafter, the directors and treasurer shall maintain
18 these bonds in full effect. All costs of the bonds shall be borne by the
19 trust.

20 f. The directors of the trust shall serve without compensation, but
21 the trust shall reimburse the directors for actual and necessary
22 expenses incurred in the performance of their duties. Notwithstanding
23 the provisions of any other law to the contrary, no officer or employee
24 of the State shall be deemed to have forfeited or shall forfeit his office
25 or employment or any benefits or emoluments thereof by reason of his
26 acceptance of the office of ex officio director of the trust or his
27 services thereon.

28 g. Each ex officio director may designate an officer of his
29 department to represent him at meetings of the trust. Each designee
30 may lawfully vote and otherwise act on behalf of the director for
31 whom he constitutes the designee. The designation shall be delivered
32 in writing to the trust and shall continue in effect until revoked or
33 amended in writing and delivered to the trust.

34 h. The trust may be dissolved by law; provided the trust has no
35 debts or obligations outstanding or that provision has been made for
36 the payment or retirement of these debts or obligations. The trust shall
37 continue in existence until dissolved by act of the Legislature. Upon
38 any dissolution of the trust all property, funds and assets of the trust
39 shall be vested in the State.

40 i. A true copy of the minutes of every meeting of the trust shall be
41 forthwith delivered by and under the certification of the secretary
42 thereof to the Governor and at the same time to the Senate and
43 General Assembly. The time and act of this delivery shall be duly
44 recorded on a delivery receipt. No action taken or motion or
45 resolution adopted at a meeting by the trust shall have effect until 10
46 days, exclusive of Saturdays, Sundays and public holidays, after a copy

1 of the minutes has been delivered to the Governor, unless during the
2 10-day period the Governor shall approve all or part of the actions
3 taken or motions or resolutions adopted, in which case the action or
4 motion or resolution shall become effective upon the approval.

5 If, in the 10-day period, the Governor returns the copy of the
6 minutes with a veto of any action taken by the trust or any member
7 thereof at that meeting, the action shall be of no effect. The Senate or
8 General Assembly shall have the right to provide written comments
9 concerning the minutes to the Governor within the 10-day period,
10 which comments shall be returned to the trust by the Governor with
11 his approval or veto of the minutes.

12 The powers conferred in this subsection upon the Governor shall be
13 exercised with due regard for the rights of the holders of bonds, notes
14 and other obligations of the trust at any time outstanding, and nothing
15 in, or done pursuant to, this subsection shall in any way limit, restrict
16 or alter the obligation or powers of the trust or any representative or
17 officer of the trust to carry out and perform each covenant, agreement
18 or contract made or entered into by or on behalf of the trust with
19 respect to its bonds, notes or other obligations or for the benefit,
20 protection or security of the holders thereof.

21 j. No resolution or other action of the trust providing for the
22 issuance of bonds, refunding bonds, notes or other obligations shall be
23 adopted or otherwise made effective by the trust without the prior
24 approval in writing of the Governor and the State Treasurer. The trust
25 shall provide the Senate and General Assembly with written notice of
26 any request for approval of the Governor and State Treasurer at the
27 time the request is made, and shall also provide the Senate and General
28 Assembly written notice of the response of the Governor and State
29 Treasurer at the time that the response is received by the trust.

30 (cf: P.L.1987, c.459, s.1)

31

32 6. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read
33 as follows:

34 5. Except as otherwise limited by [this act] the provisions of
35 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before
36 the Legislature as this bill), the trust may:

37 a. Make and alter bylaws for its organization and internal
38 management and, subject to agreements with holders of its bonds,
39 notes or other obligations, make rules and regulations with respect to
40 its operations, properties and facilities;

41 b. Adopt an official seal and alter it;

42 c. Sue and be sued;

43 d. Make and enter into all contracts, leases and agreements
44 necessary or incidental to the performance of its duties and the
45 exercise of its powers under [this act] the provisions of P.L.1985,
46 c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the

1 Legislature as this bill), and subject to any agreement with the holders
2 of the trust's bonds, notes or other obligations, consent to any
3 modification, amendment or revision of any contract, lease or
4 agreement to which the trust is a party;

5 e. Enter into agreements or other transactions with and accept,
6 subject to the provisions of section 23 of [this act] P.L.1985, c.334
7 (C.58:11B-23), grants, appropriations and the cooperation of the
8 State, or any State agency, in furtherance of the purposes of [this act]
9 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before
10 the Legislature as this bill), and do anything necessary in order to avail
11 itself of that aid and cooperation;

12 f. Receive and accept aid or contributions from any source of
13 money, property, labor or other things of value, to be held, used and
14 applied to carry out the purposes of [this act] P.L.1985, c.334
15 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the Legislature as
16 this bill), subject to the conditions upon which that aid and those
17 contributions may be made, including, but not limited to, gifts or
18 grants from any department or agency of the State, or any State
19 agency, for any purpose consistent with [this act] the provisions of
20 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before
21 the Legislature as this bill), subject to the provisions of section 23 of
22 [this act] P.L.1985, c.334 (C.58:11B-23);

23 g. Acquire, own, hold, construct, improve, rehabilitate, renovate,
24 operate, maintain, sell, assign, exchange, lease, mortgage or otherwise
25 dispose of real and personal property, or any interest therein, in the
26 exercise of its powers and the performance of its duties under [this
27 act] the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. ,
28 c. (C.) (before the Legislature as this bill);

29 h. Appoint and employ an executive director and any other officers
30 or employees as it may require for the performance of its duties,
31 without regard to the provisions of Title [11 of the Revised] 11A of
32 the New Jersey Statutes;

33 i. Borrow money and issue bonds, notes and other obligations, and
34 secure the same, and provide for the rights of the holders thereof as
35 provided in [this act] the provisions of P.L.1985, c.334 (C.58:11B-1
36 et seq.) or P.L. , c. (C.)(before the Legislature as this bill);

37 j. Subject to any agreement with holders of its bonds, notes or
38 other obligations, invest moneys of the trust not required for
39 immediate use, including proceeds from the sale of any bonds, notes
40 or other obligations, in any obligations, securities and other
41 investments in accordance with the rules and regulations of the State
42 Investment Council or as may otherwise be approved by the Director
43 of the Division of Investment in the Department of the Treasury upon
44 a finding that such investments are consistent with the corporate
45 purposes of the trust;

46 k. Procure insurance to secure the payment of its bonds, notes or

1 other obligations or the payment of any guarantees or loans made by
2 it in accordance with [this act] the provisions of P.L.1985, c.334
3 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature
4 as this bill), or against any loss in connection with its property and
5 other assets and operations, in any amounts and from any insurers as
6 it deems desirable;

7 l. Engage the services of attorneys, accountants, engineers, and
8 financial experts and any other advisors, consultants, experts and
9 agents as may be necessary in its judgment and fix their compensation;

10 m. (1) Make and contract to make loans to local government units
11 to finance the cost of wastewater treatment system projects²[, solid
12 waste management projects]² or water supply projects and acquire
13 and contract to acquire notes, bonds or other obligations issued or to
14 be issued by local government units to evidence the loans, all in
15 accordance with the provisions of [this act] P.L.1985, c.334
16 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the
17 Legislature as this bill);

18 (2) Make and contract to make loans to public water utilities to
19 finance the cost of water supply projects in accordance with the
20 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
21 (C.) (before the Legislature as this bill);

22 n. Subject to any agreement with holders of its bonds, notes or
23 other obligations, purchase bonds, notes and other obligations of the
24 trust and hold the same for resale or provide for the cancellation
25 thereof, all in accordance with the provisions of [this act] P.L.1985,
26 c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the
27 Legislature as this bill);

28 o. (1) Charge to and collect from local government units or public
29 water utilities any fees and charges in connection with the trust's loans,
30 guarantees or other services, including, but not limited to, fees and
31 charges sufficient to reimburse the trust for all reasonable costs
32 necessarily incurred by it in connection with its financings and the
33 establishment and maintenance of reserve or other funds, as the trust
34 may determine to be reasonable. The fees and charges shall be in
35 accordance with a uniform schedule published by the trust for the
36 purpose of providing actual cost reimbursement for the services
37 rendered;

38 (2) Any fees and charges collected by the trust pursuant to this
39 subsection may be deposited and maintained in a fund separate from
40 any other funds held by the trust pursuant to section 10 of P.L.1985,
41 c.334 (C.58:11B-10) or²[sections] section² 23²[and 24]² of P.L. ,
42 c. (C.) (before the Legislature as this bill) and shall be available
43 for any corporate purposes of the trust;

44 p. Subject to any agreement with holders of its bonds, notes or
45 other obligations, obtain as security or to provide liquidity for payment
46 of all or any part of the principal of and interest and premium on the

1 bonds, notes and other obligations of the trust or for the purchase
2 upon tender or otherwise of the bonds, notes or other obligations,
3 lines of credit, letters of credit and other security agreements or
4 instruments in any amounts and upon any terms as the trust may
5 determine, and pay any fees and expenses required in connection
6 therewith;

7 q. Provide to local government units any financial and credit advice
8 as these [governmental] local government units may request;

9 r. Make payments to the State from any moneys of the trust
10 available therefor as may be required pursuant to any agreement with
11 the State or act appropriating moneys to the trust; and

12 s. Take any action necessary or convenient to the exercise of the
13 foregoing powers or reasonably implied therefrom.

14 (cf: P.L.1985, c.334, s.5)

15

16 7. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read
17 as follows:

18 6. a. Except as may be otherwise expressly provided in the
19 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
20 (C.)(before the Legislature as this bill), the trust may from time
21 to time issue its bonds, notes or other obligations in any principal
22 amounts as in the judgment of the trust shall be necessary to provide
23 sufficient funds for any of its corporate purposes, including the
24 payment, funding or refunding of the principal of, or interest or
25 redemption premiums on, any bonds, notes or other obligations issued
26 by it, whether the bonds, notes or other obligations or the interest or
27 redemption premiums thereon to be funded or refunded have or have
28 not become due, the establishment or increase of reserves or other
29 funds to secure or to pay the bonds, notes or other obligations or
30 interest thereon and all other costs or expenses of the trust incident to
31 and necessary to carry out its corporate purposes and powers.

32 b. Whether or not the bonds, notes or other obligations of the trust
33 are of a form and character as to be negotiable instruments under the
34 terms of Title 12A of the New Jersey Statutes, the bonds, notes and
35 other obligations are made negotiable instruments within the meaning
36 of and for the purposes of Title 12A ¹of the New Jersey Statutes ¹,
37 subject only to the provisions of the bonds, notes and other obligations
38 for registration.

39 c. Bonds, notes or other obligations of the trust shall be authorized
40 by a resolution or resolutions of the trust and may be issued in one or
41 more series and shall bear any date or dates, mature at any time or
42 times, bear interest at any rate or rates of interest per annum, be in any
43 denomination or denominations, be in any form, either coupon,
44 registered or book entry, carry any conversion or registration
45 privileges, have any rank or priority, be executed in any manner, be
46 payable in any coin or currency of the United States which at the time

1 of payment is legal tender for the payment of public and private debts,
2 at any place or places within or without the State, and be subject to
3 any terms of redemption by the trust or the holders thereof, with or
4 without premium, as the resolution or resolutions may provide. A
5 resolution of the trust authorizing the issuance of bonds, notes or
6 other obligations may provide that the bonds, notes or other
7 obligations be secured by a trust indenture between the trust and a
8 trustee, vesting in the trustee any property, rights, powers and duties
9 in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1
10 et seq.) or P.L. , c. (C.)(before the Legislature as this bill) as
11 the trust may determine.

12 d. Bonds, notes or other obligations of the trust may be sold at any
13 price or prices and in any manner as the trust may determine. Each
14 bond, note or other obligation shall mature and be paid not later than
15 20 years from the effective date thereof, or the certified useful life of
16 the project or projects to be financed by the bonds, whichever is less.

17 All bonds of the trust shall be sold at such price or prices and in
18 such manner as the trust shall determine, after notice of sale, a
19 summary of which shall be published at least once in at least three
20 newspapers published in the State of New Jersey, and at least once in
21 a publication carrying municipal bond notices and devoted primarily to
22 financial news, published in New Jersey or the city of New York, the
23 first notice to be at least five days prior to the day of bidding. The
24 notice of sale may contain a provision to the effect that any or all bids
25 made in pursuance thereof may be rejected. In the event of such
26 rejection or of failure to receive any acceptable bid, the trust, at any
27 time within 60 days from the date of such advertised sale, may sell
28 such bonds at private sale upon terms not less favorable to the State
29 than the terms offered by any rejected bid. The trust may sell all or
30 part of the bonds of any series as issued to any State fund or to the
31 federal government or any agency thereof, at private sale, without
32 advertisement.

33 e. Bonds, notes or other obligations of the trust may be issued
34 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
35 P.L. , c. (C.)(before the Legislature as this bill) without
36 obtaining the consent of any department, division, board, bureau or
37 agency of the State, and without any other proceedings or the
38 happening of any other conditions or things, other than those consents,
39 proceedings, conditions or things which are specifically required by
40 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before
41 the Legislature as this bill).

42 f. Bonds, notes or other obligations of the trust issued under the
43 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
44 (C.)(before the Legislature as this bill) shall not be a debt or
45 liability of the State or of any political subdivision thereof other than
46 the trust and shall not create or constitute any indebtedness, liability

1 or obligation of the State or any political subdivision, but all these
2 bonds, notes and other obligations, unless funded or refunded by
3 bonds, notes or other obligations, shall be payable solely from
4 revenues or funds pledged or available for their payment as authorized
5 in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. _____, c.
6 (C. _____)(before the Legislature as this bill). Each bond, note and
7 obligation shall contain on its face a statement to the effect that the
8 trust is obligated to pay the principal thereof or the interest thereon
9 only from its revenues, receipts or funds pledged or available for their
10 payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or
11 P.L. _____, c. _____ (C. _____)(before the Legislature as this bill), and that
12 neither the State, nor any political subdivision thereof, is obligated to
13 pay the principal or interest and that neither the faith and credit nor the
14 taxing power of the State, or any political subdivision thereof, is
15 pledged to the payment of the principal of or the interest on the bonds,
16 notes or other obligations.

17 g. The [aggregate principal amount of bonds, notes or other
18 obligations, including subordinated indebtedness of the trust, shall not
19 exceed \$600,000,000.00, except that, for the purpose of implementing
20 the Fiscal Year 1996 Financial Plan as approved by the Legislature
21 pursuant to SCR No. 105 of 1995 and ACR No. 15 of 1995, and in
22 compliance with subsection j. of this section, the trust may exceed the
23 foregoing limitations. In computing the foregoing limitations there
24 shall be excluded all the] ²[trust may issue] aggregate principal
25 amount of bonds, notes or other obligations, including subordinated
26 indebtedness of the trust, shall not exceed \$1,000,000,000.00. In
27 computing the foregoing limitations there shall be excluded all the²
28 bonds, notes or other obligations, including subordinated indebtedness
29 of the trust, which shall be issued for refunding purposes, whenever
30 the refunding shall be determined to result in a debt service savings, as
31 hereinafter provided:

32 (1) Upon the decision by the trust to issue refunding bonds, and
33 prior to the sale of those bonds, the trust shall transmit to the Joint
34 Appropriations Committee's Subcommittee on Transfers, or its
35 successor, a report that a decision has been made, reciting the basis on
36 which the decision was made, including an estimate of the debt service
37 savings to be achieved and the calculations upon which the trust relied
38 when making the decision to issue refunding bonds. The report shall
39 also disclose the intent of the trust to issue and sell the refunding
40 bonds at public or private sale and the reasons therefor.

41 (2) The Joint Appropriations Committee's Subcommittee on
42 Transfers shall have the authority to approve or disapprove the sales
43 of refunding bonds as included in each report submitted in accordance
44 with paragraph (1) of this subsection. The subcommittee shall notify
45 the trust in writing of the approval or disapproval as expeditiously as
46 possible.

1 (3) No refunding bonds shall be issued unless the report has been
2 submitted to and approved by the Joint Appropriations Committee's
3 Subcommittee on Transfers as set forth in paragraphs (1) and (2) of
4 this subsection.

5 (4) Within 30 days after the sale of the refunding bonds, the trust
6 shall notify the Subcommittee on Transfers of the result of that sale,
7 including the prices and terms, conditions and regulations concerning
8 the refunding bonds, the actual amount of debt service savings to be
9 realized as a result of the sale of refunding bonds, and the intended use
10 of the proceeds from the sale of those bonds.

11 (5) The subcommittee shall review all information and reports
12 submitted in accordance with this subsection and may, on its own
13 initiative, make observations to the trust, or to the Legislature, or
14 both, as it deems appropriate.

15 h. Each issue of bonds, notes or other obligations of the trust may,
16 if it is determined by the trust, be general obligations thereof payable
17 out of any revenues, receipts or funds of the trust, or special
18 obligations thereof payable out of particular revenues, receipts or
19 funds, subject only to any agreements with the holders of bonds, notes
20 or other obligations, and may be secured by one or more of the
21 following:

22 (1) Pledge of revenues and other receipts to be derived from the
23 payment of the interest on and principal of notes, bonds or other
24 obligations issued to the trust by one or more local government units,
25 and any other payment made to the trust pursuant to agreements with
26 any local government units, or a pledge or assignment of any notes,
27 bonds or other obligations of any local government unit and the rights
28 and interest of the trust therein;

29 (2) Pledge of rentals, receipts and other revenues to be derived
30 from leases or other contractual arrangements with any person or
31 entity, public or private, including one or more local government units,
32 or a pledge or assignment of those leases or other contractual
33 arrangements and the rights and interest of the trust therein;

34 (3) Pledge of all moneys, funds, accounts, securities and other
35 funds, including the proceeds of the bonds, notes or other obligations;

36 (4) Pledge of the receipts to be derived from the payments of State
37 aid, payable to the trust pursuant to section 12 of P.L.1985, c.334
38 (C.58:11B-12);

39 (5) A mortgage on all or any part of the property, real or personal,
40 of the trust then owned or thereafter to be acquired, or a pledge or
41 assignment of mortgages made to the trust by any person or entity,
42 public or private, including one or more local government units and
43 the rights and interest of the trust therein.

44 i. The trust shall not issue any bonds, notes or other obligations, or
45 otherwise incur any additional indebtedness, on or after November 5,
46 2005.

1 j. [For the purpose of implementing the Fiscal Year 1996 Financial
 2 Plan as approved by the Legislature pursuant to SCR No. 105 of 1995
 3 and ACR No. 15 of 1995, the trust shall provide the Senate Budget
 4 and Appropriations and the Assembly Appropriations Committee, or
 5 their successors, with a detailed statement by the trust of the costs of
 6 issuance of any bonds issued to implement the Fiscal Year 1996
 7 Financial Plan, within thirty days of the issuance thereof, with specific
 8 reference, where applicable, to itemized costs for the following
 9 services:

- 10 (1) bond counsel, tax counsel and special counsel;
- 11 (2) financial advisor;
- 12 (3) paying agent and registrar;
- 13 (4) rating agencies;
- 14 (5) official statement printing;
- 15 (6) bond printing;
- 16 (7) trustee;
- 17 (8) credit enhancement;
- 18 (9) liquidity facility; and
- 19 (10) miscellaneous issuance costs; and

20 a calculation of underwriters' spread, broken down into the following
 21 components, and accompanied by a list of underwriters' spreads from
 22 recent comparable bond issues:

- 23 (1) management fees;
- 24 (2) underwriters' fees;
- 25 (3) selling concessions;
- 26 (4) underwriters' counsel; and
- 27 (5) other costs.] ²[(Deleted by amendment, P.L. , c.)(pending
 28 in the Legislature as this bill)] (Deleted by amendment, P.L.1996,
 29 c.88).²
 30 (cf: P.L.1996, c.88, s.1)

31

32 8. Section 7 of P.L.1985, c.334 (C.58:11B-7) is amended to read
 33 as follows:

34 7. In any resolution of the trust authorizing or relating to the
 35 issuance of any of its bonds, notes or other obligations, the trust, in
 36 order to secure the payment of the bonds, notes or other obligations
 37 and in addition to its other powers, may by provisions therein which
 38 shall constitute covenants by the trust and contracts with the holders
 39 of the bonds, notes or other obligations:

40 a. Secure the bonds, notes or other obligations as provided in
 41 section 6 of [this act] P.L.1985, c.334 (C.58:11B-6);

42 b. Covenant against pledging all or part of its revenues or receipts;

43 c. Covenant with respect to limitations on any right to sell,
 44 mortgage, lease or otherwise dispose of any notes, bonds or other
 45 obligations of local [governmental] government units, or any part
 46 thereof, or any property of any kind;

- 1 d. Covenant as to any bonds, notes or other obligations to be
2 issued by the trust, and the limitations thereon, and the terms and
3 conditions thereof, and as to the custody, application, investment and
4 disposition of the proceeds thereof;
- 5 e. Covenant as to the issuance of additional bonds, notes or other
6 obligations of the trust or as to limitations on the issuance of
7 additional bonds, notes or other obligations and on the incurring of
8 other debts by it;
- 9 f. Covenant as to the payment of the principal of or interest on
10 bonds, notes or other obligations of the trust, as to the sources and
11 methods of payment, as to the rank or priority of the bonds, notes or
12 other obligations with respect to any lien or security or as to the
13 acceleration of the maturity of the bonds, notes or other obligations;
- 14 g. Provide for the replacement of lost, stolen, destroyed or
15 mutilated bonds, notes or other obligations of the trust;
- 16 h. Covenant against extending the time for the payment of bonds,
17 notes or other obligations of the trust or interest thereon;
- 18 i. Covenant as to the redemption of bonds, notes and other
19 obligations by the trust or the holders thereof and privileges of
20 exchange thereof for other bonds, notes or other obligations of the
21 trust;
- 22 j. Covenant to create or authorize the creation of special funds or
23 accounts to be held in trust or otherwise for the benefit of holders of
24 bonds, notes and other obligations of the trust, or reserves for other
25 purposes and as to the use, investment, and disposition of moneys held
26 in those funds, accounts or reserves;
- 27 k. Provide for the rights and liabilities, powers and duties arising
28 upon the breach of any covenant, condition or obligation and prescribe
29 the events of default and terms and conditions upon which any or all
30 of the bonds, notes or other obligations of the trust shall become or
31 may be declared due and payable before maturity and the terms and
32 conditions upon which the declaration and its consequences may be
33 waived;
- 34 l. Vest in a trustee or trustees within or without the State any
35 property, rights, powers and duties in trust as the trust may determine,
36 which may include any or all of the rights, powers and duties of any
37 trustee appointed by the holders of any bonds, notes or other
38 obligations of the trust pursuant to section 18 of [this act] P.L.1985,
39 c.334 (C.58:11B-18), including rights with respect to the sale or other
40 disposition of notes, bonds or other obligations of local government
41 units pledged pursuant to a resolution or trust indenture for the benefit
42 of the holders of bonds, notes or other obligations of the trust and the
43 right by suit or action to foreclose any mortgage pledged pursuant to
44 the resolution or trust indenture for the benefit of the holders of the
45 bonds, notes or other obligations, and to limit or abrogate the right of
46 the holders of any bonds, notes or other obligations of the trust to

1 appoint a trustee under [this act] the provisions of P.L.1985, c.334
 2 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature
 3 as this bill), and to limit the rights, duties and powers of the trustee;
 4 m. Pay the costs or expenses incident to the enforcement of the
 5 bonds, notes or other obligations of the trust or of the provisions of
 6 the resolution authorizing the issuance of those bonds, notes or other
 7 obligations or of any covenant or agreement of the trust with the
 8 holders of the bonds, notes or other obligations;
 9 n. Limit the rights of the holders of any bonds, notes or other
 10 obligations of the trust to enforce any pledge or covenant securing the
 11 bonds, notes or other obligations; and
 12 o. Make covenants other than or in addition to the covenants
 13 authorized by [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or
 14 P.L. , c. (C.)(pending in the Legislature as this bill) of like
 15 or different character, and make covenants to do or refrain from doing
 16 any acts and things as may be necessary, or convenient and desirable,
 17 in order to better secure the bonds, notes or other obligations of the
 18 trust, or which, in the absolute discretion of the trust, would make the
 19 bonds, notes or other obligations more marketable, notwithstanding
 20 that the covenants, acts or things may not be enumerated herein.
 21 (cf: P.L.1985, c.334, s.7)

22

23 9. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read
 24 as follows:

25 9. a. (1) The trust may make and contract to make loans to local
 26 government units in accordance with and subject to the provisions of
 27 [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
 28 (C.)(before the Legislature as this bill) to finance the cost of any
 29 wastewater treatment system [projects] project ²[, solid waste
 30 management project]² or water supply project, which the local
 31 government unit may lawfully undertake or acquire and for which the
 32 local government unit is authorized by law to borrow money.

33 (2) The trust may make and contract to make loans to public water
 34 utilities in accordance with and subject to the provisions of P.L.1985,
 35 c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (pending in the
 36 Legislature as this bill) to finance the cost of any water supply project,
 37 which the public water utility may lawfully undertake or acquire.

38 The loans may be made subject to those terms and conditions as the
 39 trust shall determine to be consistent with the purposes thereof. Each
 40 loan by the trust and the terms and conditions thereof shall be subject
 41 to approval by the State Treasurer, and the trust shall make available
 42 to the State Treasurer all information, statistical data and reports of
 43 independent consultants or experts as the State Treasurer shall deem
 44 necessary in order to evaluate the loan. Each loan to a local
 45 government unit or public water utility shall be evidenced by notes,
 46 bonds or other obligations thereof issued to the trust. In the case of

1 each local government unit, notes and bonds to be issued to the trust
2 by the local government unit (1) shall be authorized and issued as
3 provided by law for the issuance of notes and bonds by the local
4 government unit, (2) shall be approved by the Local Finance Board in
5 the Division of Local Government Services in the Department of
6 Community Affairs, and (3) notwithstanding the provisions of
7 N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other
8 provisions of law to the contrary, may be sold at private sale to the
9 trust at any price, whether or not less than par value, and shall be
10 subject to redemption prior to maturity at any times and at any prices
11 as the trust and local government units may agree. Each loan to a local
12 government unit or public water utility and the notes, bonds or other
13 obligations thereby issued shall bear interest at a rate or rates per
14 annum as the trust and the local government unit or public water
15 utility, as the case may be, may agree.

16 b. The trust is authorized to guarantee or contract to guarantee the
17 payment of all or any portion of the principal and interest on bonds,
18 notes or other obligations issued by a local government unit to finance
19 the cost of any wastewater treatment system project ²[, solid waste
20 management project]² or water supply project, which the local
21 government unit may lawfully undertake or acquire and for which the
22 local government unit is authorized by law to borrow money, and the
23 guarantee shall constitute an obligation of the trust for the purposes
24 of [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. _____, c.
25 (C. _____)(pending in the Legislature as this bill). Each guarantee by
26 the trust and the terms and conditions thereof shall be subject to
27 approval by the State Treasurer, and the trust shall make available to
28 the State Treasurer all information, statistical data and reports of
29 independent consultants or experts as the State Treasurer shall deem
30 necessary in order to evaluate the guarantee.

31 c. The trust shall not make or contract to make any loans or
32 guarantees to local government units or public water utilities, or
33 otherwise incur any additional indebtedness, on or after [20 years from
34 the effective date of this act] November 5, 2005.
35 (cf: P.L.1985, c.334, s.9)

36
37 10. Section 10 of P.L.1985, c.334 (C.58:11B-10) is amended to
38 read as follows:

39 10. The trust shall create and establish a special fund to be known
40 as the "wastewater treatment system general loan fund."

41 Subject to the provisions of the legislation appropriating moneys to
42 the trust, subject to any other provision of [this act] P.L.1985, c.334
43 (C.58:11B-1 et seq.) or P.L. _____, c. (C. _____) (before the Legislature as
44 this bill) providing otherwise, and subject to agreements with the
45 holders of bonds, notes and other obligations of the trust, the trust
46 shall deposit into the wastewater treatment system general loan fund

1 all revenues and receipts of the trust, including moneys received by the
2 trust as payment of the principal of and the interest or premium on
3 loans made from moneys in any wastewater treatment system fund or
4 account held by the trust under [this act] P.L.1985, c.334 (C.58:11B-1
5 et seq.) or P.L. , c. (C.)(before the Legislature as this bill),
6 and the earnings on the moneys in any wastewater treatment system
7 fund or account of the trust, and all grants, appropriations, other than
8 those referred to in section 11 of [this act] P.L.1985, c.334
9 (C.58:11B-11), contributions, or other moneys from any source,
10 available for the making of loans to local government units. The
11 amounts in the wastewater treatment system general loan fund shall be
12 available for application by the trust for loans to local government
13 units for the cost of wastewater treatment system projects, and for
14 other corporate purposes of the trust related to wastewater treatment
15 systems, subject to agreements with the holders of bonds, notes or
16 other obligations of the trust.

17 (cf: P.L.1985, c.334, s.10)

18

19 11. Section 13 of P.L.1985, c.334 (C.58:11B-13) is amended to
20 read as follows:

21 13. Neither the directors of the trust nor any person executing
22 bonds, notes or other obligations of the trust issued pursuant to [this
23 act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
24 (C.)(before the Legislature as this bill) shall be liable personally
25 on the bonds, notes or other obligations by reason of the issuance
26 thereof.

27 (cf: P.L.1985, c.334, s.13)

28

29 12. Section 14 of P.L.1985, c.334 (C.58:11B-14) is amended to
30 read as follows:

31 14. The State does pledge to and covenant and agree with the
32 holders of any bonds, notes or other obligations of the trust issued
33 pursuant to authorization of [this act] P.L.1985, c.334 (C.58:11B-1
34 et seq.) or P.L. , c. (C.)(before the Legislature as this bill)
35 that the State shall not limit or alter the rights or powers vested in the
36 trust to perform and fulfill the terms of any agreement made with the
37 holders of the bonds, notes or other obligations or to fix, establish,
38 charge and collect any rents, fees, rates, payments or other charges as
39 may be convenient or necessary to produce sufficient revenues to meet
40 all expenses of the trust and to fulfill the terms of any agreement made
41 with the holders of bonds, notes or other obligations, including the
42 obligations to pay the principal of and interest and premium on those
43 bonds, notes or other obligations, with interest on any unpaid
44 installments of interest, and all costs and expenses in connection with
45 any action or proceedings by or on behalf of the holders, and shall not
46 limit or alter the rights and powers of any local government unit to pay

1 and perform its obligations owed to the trust in connection with loans
2 received from the trust, until the bonds, notes and other obligations of
3 the trust, together with interest thereon, are fully met and discharged
4 or provided for.

5 (cf: P.L.1985, c.334, s.14)

6

7 13. Section 15 of P.L.1985, c.334 (C.58:11B-15) is amended to
8 read as follows:

9 15. The State and all public officers, governmental units and
10 agencies thereof, all banks, trust companies, savings banks and
11 institutions, building and loan associations, savings and loan
12 associations, investment companies, and other persons carrying on a
13 banking business, all insurance companies, insurance associations and
14 other persons carrying on an insurance business, and all executors,
15 administrators, guardians, trustees and other fiduciaries may legally
16 invest any sinking funds, moneys or other funds belonging to them or
17 within their control in any bonds, notes or other obligations issued
18 pursuant to [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. ,
19 c. (C.)(before the Legislature as this bill), and those bonds, notes
20 or other obligations shall be authorized security for any and all public
21 deposits.

22 (cf: P.L.1985, c.334, s.15)

23

24 14. Section 17 of P.L.1985, c.334 (C.58:11B-17) is amended to
25 read as follows:

26 17. All property of the trust is declared to be public property
27 devoted to an essential public and governmental function and purpose
28 and the revenues, income and other moneys received or to be received
29 by the trust shall be exempt from all taxes of the State or any political
30 subdivision thereof. All bonds, notes and other obligations of the trust
31 issued pursuant to [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or
32 P.L. , c. (C.)(before the Legislature as this bill) are declared
33 to be issued by a body corporate and politic of the State and for an
34 essential public and governmental purpose and those bonds, notes and
35 other obligations, and interest thereon and the income therefrom and
36 from the sale, exchange or other transfer thereof shall at all times be
37 exempt from taxation, except for transfer inheritance and estate taxes.

38 (cf: P.L.1985, c.334, s.17)

39

40 15. Section 18 of P.L.1985, c.334 (C.58:11B-18) is amended to
41 read as follows:

42 18. a. If the trust defaults in the payment of principal of, or
43 interest on, any issue of its bonds, notes or other obligations after
44 these are due, whether at maturity or upon call for redemption, and the
45 default continues for a period of 30 days or if the trust defaults in any
46 agreement made with the holders of any issue of bonds, notes or other

1 obligations, the holders of 25% in aggregate principal amount of the
2 bonds, notes or other obligations of the issue then outstanding, by
3 instrument or instruments filed in the office of the clerk of any county
4 in which the trust operates and has an office and proved or
5 acknowledged in the same manner as required for a deed to be
6 recorded, may direct a trustee to represent the holders of the bonds,
7 notes or other obligations of the issuers for the purposes herein
8 provided.

9 b. Upon default, the trustee may, and upon written request of the
10 holders of 25% in principal amount of the bonds, notes or other
11 obligations of the trust of a particular issue then outstanding shall, in
12 his or its own name:

13 (1) By suit, action or proceeding enforce all rights of the holders
14 of bonds, notes or other obligations of the issue, to require the trust
15 to carry out any other agreements with the holders of the bonds, notes
16 or other obligations of the issue and to perform its duties under [this
17 act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. _____, c.
18 (C. _____)(before the Legislature as this bill);

19 (2) Bring suit upon the bonds, notes or other obligations of the
20 issue;

21 (3) By action or suit, require the trust to account as if it were the
22 trustee of an express trust for the holders of the bonds, notes or other
23 obligations of the issue;

24 (4) By action or suit, enjoin any acts or things which may be
25 unlawful or in violation of the rights of the holders of the bonds, notes
26 or other obligations of the issue;

27 (5) Sell or otherwise dispose of bonds and notes of local
28 government units pledged pursuant to resolution or trust indenture for
29 benefit of holders of bonds, notes, or other obligations of the issue on
30 any terms as resolution or trust indenture may provide;

31 (6) By action or suit, foreclose any mortgage pledged pursuant to
32 the resolution or trust indenture for the benefit of the holders of the
33 bonds, notes or other obligations of the issue;

34 (7) Declare all bonds, notes or other obligations of the issue due
35 and payable, and if all defaults are made good, then with the consent
36 of the holders of 50% of the principal amount of the bonds, notes or
37 other obligations of the issue then outstanding, to annul the
38 declaration and its consequences.

39 c. The trustee shall, in addition to the foregoing, have those
40 powers necessary or appropriate for the exercise of any function
41 specifically set forth herein or incident to the general representation of
42 holders of bonds, notes or other obligations of the trust in the
43 enforcement and protection of their rights.

44 d. The Superior Court shall have jurisdiction over any suit, action
45 or proceeding by the trustees on behalf of the holders of bonds, notes
46 or other obligations of the trust. The venue of any suit, action or

1 proceeding shall be in the county in which the principal office of the
2 trust is located.

3 e. Before declaring the principal of bonds, notes or other
4 obligations of the trust due and payable as a result of a trust default on
5 any of its bonds, notes or other obligations, the trustee shall first give
6 30 days' notice in writing to the trust and to the Governor, State
7 Treasurer, President of the Senate and Speaker of the General
8 Assembly.
9 (cf: P.L.1985, c.334, s.18)

10

11 16. Section 19 of P.L.1985, c.334 (C.58:11B-19) is amended to
12 read as follows:

13 19. Sums of money received pursuant to the authority of [this act]
14 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before
15 the Legislature as this bill), whether as proceeds from the sale of
16 particular bonds, notes or other obligations of the trust or as particular
17 revenues or receipts of the trust, are deemed to be trust funds, to be
18 held and applied solely as provided in the resolution or trust indenture
19 under which the bonds, notes or obligations are authorized or secured.
20 Any officer with whom or any bank or trust company with which those
21 sums of money are deposited as trustee thereof shall hold and apply
22 the same for the purposes thereof, subject to any provision as [this
23 act] the aforementioned acts and the resolution or trust indenture
24 authorizing or securing the bonds, notes or other obligations of the
25 trust may provide.

26 (cf: P.L.1985, c.334, s.19)

27

28 17. Section 20 of P.L.1985, c.334 (C.58:11B-20) is amended to
29 read as follows:

30 20. a. The Commissioner of Environmental Protection shall for
31 each fiscal year develop a priority system for wastewater treatment
32 systems and shall establish the ranking criteria and funding policies for
33 the projects therefor. The commissioner shall set forth a project
34 priority list for funding by the trust for each fiscal year and shall
35 include the aggregate amount of funds of the trust to be authorized for
36 these purposes. The project priority list may include any stormwater
37 management or combined sewer overflow abatement project identified
38 in the stormwater management and combined sewer overflow
39 abatement project priority list adopted by the commissioner pursuant
40 to section 28 of P.L.1989, c.181.

41 The project priority list, which shall include for each wastewater
42 treatment system the date each project is scheduled to be certified as
43 ready for funding, shall be in conformance with applicable provisions
44 of the "Federal Water Pollution Control Act Amendments of 1972,"
45 Pub.L. 92-500 (33 U.S.C. § 1251 et al.), and any amendatory or
46 supplementary acts thereto, and State law. The project priority list

1 shall include a description of each project and its purpose, impact,
2 cost, and construction schedule, and an explanation of the manner in
3 which priorities were established. The priority system and project
4 priority list for the ensuing fiscal year shall be submitted to the
5 Legislature on or before January 15 of each year on a day when both
6 Houses are meeting. The President of the Senate and the Speaker of
7 the General Assembly shall cause the date of submission to be entered
8 upon the Senate Journal and the Minutes of the General Assembly,
9 respectively[, and shall cause]. On or before May 15 of each year, the
10 trust shall submit the project priority list to be introduced in each
11 House in the form of legislative appropriations bills, [and shall refer
12 these bills] which shall be referred to the Senate [Energy and]
13 Environment Committee and the General Assembly [Agriculture and
14 Environment] ¹[Solid and Hazardous Waste] Agriculture and Waste
15 Management¹ Committee, or their successors, for their respective
16 consideration.

17 b. [Within 60 days of the referral thereof, the] The Senate [Energy
18 and] Environment Committee and the General Assembly [Agriculture
19 and Environment] ¹[Solid and Hazardous Waste] Agriculture and
20 Waste Management¹ ²Committee² shall, either individually or jointly,
21 consider the legislation containing the project priority list, and shall
22 report the legislation, together with any modifications, out of
23 committee for consideration by each House of the Legislature. On or
24 before [April] July 1 of each year, the Legislature shall approve an
25 appropriations act containing the project priority list, including any
26 amendatory or supplementary provisions thereto, which act shall
27 include the authorization of an aggregate amount of funds of the trust
28 to be expended for loans and guarantees for the specific projects,
29 including the individual amounts therefor, on the list[, as modified by
30 the Senate Energy and Environment Committee and the General
31 Assembly Agriculture and Environment Committee].

32 c. The trust shall not expend any money for a loan or guarantee
33 during a fiscal year for any wastewater treatment system project unless
34 the expenditure is authorized pursuant to an appropriations act in
35 accordance with the provisions of this section.

36 (cf: P.L.1985, c.334, s.20)

37

38 18. Section 21 of P.L.1985, c.334 (C.58:11B-21) is amended to
39 read as follows:

40 21. On or before May 15 of each year, the trust shall submit to the
41 Legislature a financial plan designed to implement the financing of the
42 wastewater treatment system projects on the project priority list
43 approved pursuant to section 20 of [this act] P.L.1985, c.334
44 (C.58:11B-20). The financial plan shall contain an enumeration of the
45 bonds, notes or other obligations of the trust which the trust intends
46 to issue, including the amounts thereof and the terms and conditions

1 thereof, a list of loans to be made to local government units, including
2 the terms and conditions thereof and the anticipated rate of interest per
3 annum and repayment schedule therefor, and a list of loan guarantees
4 or contracts to guarantee the payment of all or a portion of the
5 principal and interest on bonds, notes or other obligations issued by a
6 local government unit to finance the cost of a wastewater treatment
7 system project, and the terms and conditions thereof. The financial
8 plan shall also set forth a complete operating and financial statement
9 covering its proposed operations during the forthcoming fiscal year,
10 including amounts of income from all sources, and the uniform
11 schedule of fees and charges established by the trust pursuant to
12 subsection o. of section 5 of [this act] P.L.1985, c.334 (C.58:11B-5),
13 and the amounts to be derived therefrom, and shall summarize the
14 status of each wastewater treatment system project for which loans or
15 guarantees have been made by the trust, and shall describe major
16 impediments to the accomplishment of the planned wastewater
17 treatment system projects.

18 (cf: P.L.1985, c.334, s.21)

19

20 19. Section 22 of P.L.1985, c.334 (C.58:11B-22) is amended to
21 read as follows:

22 22. a. The trust shall submit the financial plan required pursuant
23 to section 21 of [this act] P.L.1985, c.334 (C.58:11B-21) to the
24 President of the Senate and the Speaker of the General Assembly on
25 a day when both houses are meeting. The President and the Speaker
26 shall cause the date of submission to be entered upon the Senate
27 Journal and the Minutes of the General Assembly, respectively.

28 b. Unless the financial plan as described in the submission is
29 approved by adoption of a concurrent resolution of both houses within
30 the time period prescribed in this subsection, the financial plan shall be
31 deemed disapproved and the trust shall not undertake any of the
32 proposed activities contained therein. The President and the Speaker
33 shall cause a concurrent resolution of approval of the trust's financial
34 plan to be placed before the members of the respective houses for a
35 recorded vote within the time period. The time period shall commence
36 on the day of submission and expire on the forty-fifth day after
37 submission or for a house not meeting on the forty-fifth day, on the
38 next meeting day of that house.

39 (cf: P.L.1985, c.334, s.22)

1 20. Section 23 of P.L.1985, c.334 (C.58:11B-23) is amended to
2 read as follows:

3 23. a. No funds from State sources or State bond issues used to
4 capitalize the trust shall be available for use by the trust unless
5 appropriated by law to the trust.

6 b. No funds shall be expended by the trust for its annual operating
7 expenses unless appropriated by law to the trust. Unless required to be
8 otherwise applied pursuant to law, funds generated by the operation
9 of the trust, including, but not limited to: proceeds from the sale of the
10 trust's bonds, notes or other obligations; revenues derived from
11 investments by the trust; loan repayments from local government units;
12 and fees and charges levied by the trust, may thereafter be applied in
13 accordance with the provisions of [this act] P.L.1985, c.334
14 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the Legislature
15 as this bill) for any corporate purpose of the trust without
16 appropriation; except that the funds shall only be used to make loans
17 or guarantees approved by the Legislature in accordance with the
18 provisions of sections 20, 21 and 22 of [this act] P.L.1985, c.334
19 (C.58:11B-20, 58:11B-21 and 58:11B-22), ²[sections 25, 26 and 27
20 of P.L. , c. (C.)(before the Legislature as this bill).]² or
21 sections ²[28, 29 and 30] 24, 25 and 26² of P.L. , c. (C.)
22 (before the Legislature as this bill).

23 c. The trust shall not apply for[, receive, accept or utilize] any
24 federal funds, including funds which are authorized pursuant to the
25 "Federal Water Pollution Control Act Amendments of 1972," Pub.L.
26 92-500 (33 U.S.C. § 1251 et al.), and any amendatory or
27 supplementary acts thereto.

28 The trust, with the concurrence of the Commissioner of
29 Environmental Protection, may receive, accept or utilize moneys
30 received from local government units as repayments of principal and
31 interest on loans made from the State Revolving Fund Accounts
32 established pursuant to section 1 of P.L.1988, c.133.

33 (cf: P.L.1985, c.334, s.23)

34

35 21. Section 25 of P.L.1985, c.334 (C.58:11B-25) is amended to
36 read as follows:

37 25. The trust shall establish the rules and regulations governing the
38 making and use of loans or guarantees, including, but not limited to,
39 procedures for the submission of loan guarantee requests, standards
40 for the evaluation of requests, provisions implementing priority
41 systems for projects, reporting requirements of the recipient of any
42 loan or guarantee concerning the progress and the expenditure of
43 funds, and limitations, restrictions or requirements concerning the use
44 of loan funds as the trust shall prescribe; provided that the rules and
45 regulations shall be in compliance with the terms and provisions of
46 [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.

1 (C.) (before the Legislature as this bill) relating to the making of
 2 or eligibility for loans or guarantees for environmental infrastructure
 3 projects generally or for any particular type or class of wastewater
 4 treatment system ²[. solid waste management]² or water supply
 5 projects.

6 (cf: P.L.1985, c.334, s.25)

7

8 22. Section 27 of P.L.1985, c.334 (C.58:11B-27) is amended to
 9 read as follows:

10 27. The trust shall adopt such rules and regulations as it deems
 11 necessary to effectuate the purposes of [this act] P.L.1985, c.334
 12 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature
 13 as this bill), including those required pursuant to sections 25 and 26 of
 14 [this act] P.L.1985, c.334 (C.58:11B-25 and 58:11B-26), in
 15 accordance with the "Administrative Procedure Act," P.L.1968, c.410
 16 (C.52:14B-1 et seq.).

17 (cf: P.L.1985, c.334, s.27)

18

19 ²[23. (New section) The trust shall create and establish a special
 20 fund to be known as the "solid waste management general loan fund."

21 Subject to the provisions of the legislation appropriating moneys to
 22 the trust, subject to any other provision of P.L.1985, c.334
 23 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature
 24 as this bill) providing otherwise, and subject to agreements with the
 25 holders of bonds, notes and other obligations of the trust, the trust
 26 shall deposit into the solid waste management general loan fund all
 27 revenues and receipts of the trust, including moneys received by the
 28 trust as payment of the principal of and the interest or premium on
 29 loans made from moneys in any fund or account held by the trust
 30 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
 31 P.L. , c. (C.) (before the Legislature as this bill), and the
 32 earnings on the moneys in any fund or account of the trust, and all
 33 grants, appropriations, other than those referred to in section 11 of
 34 P.L.1985, c.334 (C.58:11B-11), contributions, or other moneys from
 35 any source, available for the making of loans to local government units
 36 for solid waste management projects. The amounts in the solid waste
 37 management general loan fund shall be available for application by the
 38 trust for loans to local government units for the cost of solid waste
 39 management projects, and for other corporate purposes of the trust,
 40 subject to agreements with the holders of bonds, notes or other
 41 obligations of the trust.]²

42

43 ²[24.] 23.² (New section) The trust shall create and establish a
 44 special fund to be known as the "water supply facilities general loan
 45 fund."

46 Subject to the provisions of the legislation appropriating moneys to

1 the trust, subject to any other provision of P.L.1985, c.334
2 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the Legislature
3 as this bill) providing otherwise, and subject to agreements with the
4 holders of bonds, notes and other obligations of the trust, the trust
5 shall deposit into the water supply facilities general loan fund all
6 revenues and receipts of the trust, including moneys received by the
7 trust as payment of the principal of and the interest or premium on
8 loans made from moneys in any fund or account held by the trust
9 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
10 P.L. , c. (C.)(before the Legislature as this bill), and the
11 earnings on the moneys in any fund or account of the trust, and all
12 grants, appropriations, other than those referred to in section 11 of
13 P.L.1985, c.334 (C.58:11B-11), contributions, or other moneys from
14 any source, available for the making of loans to local government units
15 or public water utilities for water supply projects. The amounts in the
16 water supply facilities general loan fund shall be available for
17 application by the trust for loans to local government units or public
18 water utilities for the cost of water supply projects, and for other
19 corporate purposes of the trust, subject to agreements with the holders
20 of bonds, notes or other obligations of the trust.

21

22 ²[25. (New section) a. The Commissioner of Environmental
23 Protection shall for each fiscal year develop a priority system for solid
24 waste management projects and shall establish the ranking criteria and
25 funding policies therefor. The commissioner shall set forth a project
26 priority list for funding by the trust for each fiscal year and shall
27 include the aggregate amount of funds of the trust to be authorized for
28 these purposes.

29 (1) Any municipal solid waste landfill closure project on the project
30 priority list shall be based on the closure program for municipal solid
31 waste landfills established by the department pursuant to section 32 of
32 P.L. , c. (C.)(before the Legislature as this bill).

33 (2) Any landfill mining project on the project priority list shall be
34 based on the landfill mining program for sanitary landfill facilities
35 established by the department pursuant to section 33 of P.L. , c.
36 (C.)(before the Legislature as this bill).

37 The project priority list, which shall include for each solid waste
38 management project the date the project is scheduled to be certified as
39 ready for funding, shall be in conformance with applicable provisions
40 of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
41 seq.), and any amendatory or supplementary acts thereto.

42 The project priority list shall include a description of each project
43 and its purpose, impact, cost, and construction schedule, and an
44 explanation of the manner in which priorities were established. The
45 priority system and project priority list for the ensuing fiscal year shall
46 be submitted to the Legislature on or before January 15 of each year

1 on a day when both Houses are meeting. The President of the Senate
2 and the Speaker of the General Assembly shall cause the date of
3 submission to be entered upon the Senate Journal and the Minutes of
4 the General Assembly, respectively. On or before May 15 of each year,
5 the trust shall submit the project priority list to be introduced in each
6 House in the form of legislative appropriations bills, which shall be
7 referred to the Senate Natural Resources and Economic Development
8 Committee and the General Assembly ¹[Solid and Hazardous Waste]
9 Agriculture and Waste Management¹ Committee, or their successors,
10 for their respective consideration.

11 b. The Senate Natural Resources and Economic Development
12 Committee and the General Assembly ¹[Solid and Hazardous Waste]
13 Agriculture and Waste Management¹ Committee shall, either
14 individually or jointly, consider the legislation containing the project
15 priority list, and shall report the legislation, together with any
16 modifications, out of committee for consideration by each House of
17 the Legislature. On or before July 1 of each year, the Legislature shall
18 approve an appropriations act containing the project priority list,
19 including any amendatory or supplementary provisions thereto, which
20 act shall include the authorization of an aggregate amount of funds of
21 the trust to be expended for loans and guarantees for the specific solid
22 waste management projects, including the individual amounts therefor,
23 on the list.

24 c. The trust shall not expend any money for a loan or guarantee
25 during a fiscal year for any solid waste management project unless the
26 expenditure is authorized pursuant to an appropriations act in
27 accordance with the provisions of this section.]²
28

29 ²[26. (New section) On or before May 15 of each year, the trust
30 shall submit to the Legislature a financial plan designed to implement
31 the financing of the solid waste management projects on the project
32 priority list approved pursuant to section 25 of P.L. , c.
33 (C.)(before the Legislature as this bill). The financial plan shall
34 contain an enumeration of the bonds, notes or other obligations of the
35 trust which the trust intends to issue, including the amounts thereof
36 and the terms and conditions thereof, a list of loans to be made to local
37 government units, including the terms and conditions thereof and the
38 anticipated rate of interest per annum and repayment schedule
39 therefor, and a list of loan guarantees or contracts to guarantee the
40 payment of all or a portion of the principal and interest on bonds,
41 notes or other obligations issued by a local government unit to finance
42 the cost of a solid waste management project, and the terms and
43 conditions thereof.

44 The financial plan shall also set forth a complete operating and
45 financial statement covering its proposed operations during the
46 forthcoming fiscal year, including amounts of income from all sources,

1 and the uniform schedule of fees and charges established by the trust
2 pursuant to subsection o. of section 5 of P.L.1985 c.334
3 (C.58:11B-5), and the amounts to be derived therefrom, and shall
4 summarize the status of each solid waste management project for
5 which loans or guarantees have been made by the trust, and shall
6 describe major impediments to the accomplishment of the planned
7 solid waste management projects.]²

8
9 ²[27. (New section) a. The trust shall submit the financial plan
10 required pursuant to section 26 of P.L. , c. (C.) (before the
11 Legislature as this bill) to the President of the Senate and the Speaker
12 of the General Assembly on a day when both houses are meeting. The
13 President and the Speaker shall cause the date of submission to be
14 entered upon the Senate Journal and the Minutes of the General
15 Assembly, respectively.

16 b. Unless the financial plan as described in the submission is
17 approved by adoption of a concurrent resolution of both houses
18 within the time period prescribed in this subsection, the financial plan
19 shall be deemed disapproved and the trust shall not undertake any of
20 the proposed activities contained therein. The President and the
21 Speaker shall cause a concurrent resolution of approval of the trust's
22 financial plan to be placed before the members of the respective houses
23 for a recorded vote within the time period. The time period shall
24 commence on the day of submission and expire on the forty-fifth day
25 after submission or for a house not meeting on the forty-fifth day, on
26 the next meeting day of that house.]²

27
28 ²[28.] 24.² (New section) a. The Commissioner of Environmental
29 Protection shall for each fiscal year develop a priority system for water
30 supply projects and shall establish the ranking criteria and funding
31 policies therefor. The commissioner shall set forth a project priority
32 list for funding by the trust for each fiscal year and shall include the
33 aggregate amount of funds of the trust to be authorized for these
34 purposes. The commissioner ²[shall not] may² include a water supply
35 project on the project priority list ²[for funding unless that specific
36 project shall have been recommended in the New Jersey Statewide
37 Water Supply Plan] if it meets the eligibility requirements for funding
38 pursuant to the federal "Safe Drinking Water Act Amendments of
39 1996," Pub.L.104-182². The project priority list shall include a
40 description of each project and an explanation of the manner in which
41 priorities were established. The priority system and project priority list
42 for the ensuing fiscal year shall be submitted to the Legislature on or
43 before January 15 of each year on a day when both Houses are
44 meeting. The President of the Senate and the Speaker of the General
45 Assembly shall cause the date of submission to be entered upon the
46 Senate Journal and the Minutes of the General Assembly, respectively.

1 On or before May 15 of each year, the trust shall submit the project
2 priority list to be introduced in each House in the form of legislative
3 appropriations bills, which shall be referred to the Senate Natural
4 Resources and Economic Development Committee and the General
5 Assembly ¹[Solid and Hazardous Waste] Agriculture and Waste
6 Management¹ Committee, or their successors, for their respective
7 consideration.

8 b. The Senate Natural Resources and Economic Development
9 Committee and the General Assembly ¹[Solid and Hazardous Waste]
10 Agriculture and Waste Management¹ ²Committee² shall, either
11 individually or jointly, consider the legislation containing the project
12 priority list, and shall report the legislation, together with any
13 modifications, out of committee for consideration by each House of
14 the Legislature. On or before July 1 of each year, the Legislature shall
15 approve an appropriations act containing the project priority list,
16 including any amendatory or supplementary provisions thereto, which
17 act shall include the authorization of an aggregate amount of funds of
18 the trust to be expended for loans and guarantees for the specific
19 water supply projects, including the individual amounts therefor, on
20 the list.

21 c. The trust shall not expend any money for a loan or guarantee
22 during a fiscal year for any water supply project unless the expenditure
23 is authorized pursuant to an appropriations act in accordance with the
24 provisions of this section.

25
26 ²[29.] 25.² (New section) On or before May 15 of each year, the
27 trust shall submit to the Legislature a financial plan designed to
28 implement the financing of the water supply projects on the project
29 priority list approved pursuant to section ²[28] 24² of P.L. , c. (C.
30) (before the Legislature as this bill). The financial plan shall
31 contain an enumeration of the bonds, notes or other obligations of the
32 trust which the trust intends to issue, including the amounts thereof
33 and the terms and conditions thereof, a list of loans to be made to local
34 government units or public water utilities, including the terms and
35 conditions thereof and the anticipated rate of interest per annum and
36 repayment schedule therefor, and a list of loan guarantees or contracts
37 to guarantee the payment of all or a portion of the principal and
38 interest on bonds, notes or other obligations issued by a local
39 government unit to finance the cost of a water supply project, and the
40 terms and conditions thereof.

41 The financial plan shall also set forth a complete operating and
42 financial statement covering its proposed operations during the
43 forthcoming fiscal year, including amounts of income from all sources,
44 and the uniform schedule of fees and charges established by the trust
45 pursuant to subsection o. of section 5 of P.L.1985 c.334
46 (C.58:11B-5), and the amounts to be derived therefrom, and shall

1 summarize the status of each water supply project for which loans or
2 guarantees have been made by the trust, and shall describe major
3 impediments to the accomplishment of the planned water supply
4 projects.

5
6 ²[30.] 26.² (New section) a. The trust shall submit the financial
7 plan required pursuant to section ²[29] 25² of P.L. , c. (C.)
8 (before the Legislature as this bill) to the President of the Senate and
9 the Speaker of the General Assembly on a day when both houses are
10 meeting. The President and the Speaker shall cause the date of
11 submission to be entered upon the Senate Journal and the Minutes of
12 the General Assembly, respectively.

13 b. Unless the financial plan as described in the submission is
14 approved by adoption of a concurrent resolution of both houses within
15 the time period prescribed in this subsection, the financial plan shall be
16 deemed disapproved and the trust shall not undertake any of the
17 proposed activities contained therein. The President and the Speaker
18 shall cause a concurrent resolution of approval of the trust's financial
19 plan to be placed before the members of the respective houses for a
20 recorded vote within the time period. The time period shall commence
21 on the day of submission and expire on the forty-fifth day after
22 submission or for a house not meeting on the forty-fifth day, on the
23 next meeting day of that house.

24
25 ²[31.] 27.² (New section) As an alternative to the individual annual
26 submissions required by the provisions of sections 21 and 22 of
27 P.L.1985, c.334 (C.58:11B-21 and 58:11B-22) ²[, sections 26 and 27
28 of P.L. , c. (C.)](before the Legislature as this bill),]² and
29 sections ²[29 and 30] 25 and 26² of P.L. , c. (C.)](before the
30 Legislature as this bill), the trust may develop and submit to the
31 Legislature a consolidated financial plan designed to implement the
32 financing of the wastewater treatment system projects on the project
33 priority list approved pursuant to section 20 of P.L.1985, c.334
34 (C.58:11B-20) ²[, the solid waste management projects on the project
35 priority list approved pursuant to section 25 of P.L. , c. (C.
36)](before the Legislature as this bill),]² and the water supply projects on
37 the project priority list approved pursuant to section ²[28] 24² of P.L.
38 , c. (C.)](before the Legislature as this bill).

39
40 ²[32. (New section) a. The department shall establish a closure
41 program for municipal solid waste landfills, which shall include but not
42 be limited to:

43 (1) The identification, in consultation with local government units,
44 of ¹(a)¹ all municipal solid waste landfills in the State that ceased
45 operations prior to January 1, 1982 and that are not listed on the
46 National Priorities List pursuant to the "Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980," at 42 U.S.C.
 2 §9605, and conducting a preliminary site assessment to prioritize the
 3 municipal solid waste landfills for closure on the basis of the threat
 4 posed to the public health, safety or welfare ¹; and (b) any municipal
 5 solid waste landfill that is located in any portion of the Pinelands area
 6 that ceased operations on or after January 1, 1982 in accordance with
 7 section 502 of the "National Parks and Recreation Act of 1978"
 8 (PL 95-625), the "Pinelands Protection Act," P.L.1979, c.111
 9 (C.13:18A-1 et seq.), and the comprehensive management plan
 10 prepared and adopted by the Pinelands Commission pursuant thereto¹;

11 (2) The establishment, at the request of a municipality or
 12 municipalities within which is located a municipal solid waste landfill
 13 identified pursuant to paragraph (1) of this subsection, of a community
 14 advisory committee comprised of local officials and with
 15 representation of residents living within one mile of the municipal solid
 16 waste landfill. The department shall work with the committee in
 17 planning the closure of the municipal solid waste landfill and the
 18 long-term use of the site after closure;

19 (3) The closure of the municipal solid waste landfills identified
 20 pursuant to paragraph (1) of this subsection in accordance with the
 21 remediation standards developed by the department pursuant to
 22 section 35 of P.L.1993, c.139 (C.58:10B-12); and

23 (4) The undertaking of such other measures as the department
 24 determines necessary to implement the provisions of this section.

25 b. Whenever the department determines that the landfill closure
 26 escrow account of an owner or operator of a municipal solid waste
 27 landfill ¹, which is located outside of the Pinelands area,¹ that ceased
 28 operations between January 1, 1982 and the effective date of P.L. ,
 29 c. (C.) (before the Legislature as this bill) has insufficient funds
 30 for the proper closure of the municipal solid waste landfill, the
 31 department may enter into an agreement with the owner or operator
 32 to close the municipal solid waste landfill under the closure program
 33 established pursuant to this section.

34 ¹c. No action or measure taken by the department pursuant to the
 35 provisions of P.L. , c. (C.) (pending in the Legislature as this
 36 bill) shall be inconsistent with the provisions of section 502 of the
 37 "National Parks and Recreation Act of 1978" (PL 95-625), the
 38 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), or
 39 any rule or regulation adopted pursuant thereto, or the comprehensive
 40 management plan prepared and adopted by the Pinelands Commission
 41 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8).¹²

42

43 ²[33. (New section) a. The department shall establish a landfill
 44 mining program for sanitary landfill facilities.

45 b. Any local government unit that owns or operates a sanitary
 46 landfill facility proposing to undertake a landfill mining project shall

1 submit to the department an application package that shall contain a
2 mining plan and any other information as may be prescribed by the
3 department.

4 c. An owner or operator of a sanitary landfill facility that
5 undertakes a landfill mining project shall prepare a written report
6 concerning the project every six months during the implementation of
7 the project and a final report within 6 months of its completion, which
8 shall be submitted to the department, to the Legislature, and to the
9 Chairmen of the Senate Natural Resources and Economic
10 Development Committee and the Assembly ¹[Solid and Hazardous
11 Waste] Agriculture and Waste Management¹ Committee or their
12 successor committees. The final report shall include but shall not be
13 limited to an explanation of the procedures used in the project, the
14 number of tons of recyclable materials recovered, the types of
15 materials recovered, the number of tons of materials sold, the buyers
16 of any materials recovered, the materials composted, the number of
17 tons of materials composted, additional disposal capacity created, cost
18 effectiveness, the environmental problems revealed, the measures
19 taken for closure, the materials remaining in the landfill, if any, the
20 equipment purchased, an accounting of the costs of the projects, and
21 any other information the department deems appropriate.]²

22

23 ²[34. (New section) a. The department shall adopt, pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.), any rules and regulations necessary to implement the provisions
26 of sections 32 and 33 of P.L. , c. (C.)(before the Legislature
27 as this bill). The department shall adopt these rules and regulations
28 within 18 months of the effective date of P.L. , c. (C.)(before
29 the Legislature as this bill).]²

30

31 ²[35.] 28.² This act shall take effect immediately.

32

33

34

35

36 Establishes New Jersey Environmental Infrastructure Trust to finance
37 wastewater treatment system and water supply projects.