

CHAPTER 223

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

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

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

3. As used in this act:

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

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

"Commissioner" means the Commissioner of Environmental Protection;

"Construct" and "construction" mean, in addition to the usual meaning thereof, acts of construction, reconstruction, replacement, extension, improvement and betterment;

"Cost" means the cost incurred by the department for planning and feasibility studies for ground and surface water programs, water delivery and treatment programs, analysis and implementation of water conservation practices, for updating the New Jersey Statewide Water Supply Plan, for the cost of acquisition or construction of all or any part of a project and all or any real or personal property, agreements and franchises deemed by the department to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, costs of issuance of bonds, cost of geological and hydrological services, administrative cost, interconnection testing, engineering and inspection costs and legal expenses, costs of financial, professional and other estimates and advice, organization, operating and other expenses prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such project or part thereof and the placing of the same in operation, and also such provisions for a reserve fund, or reserves for working capital, operating, maintenance or replacement expenses and for the payment or security of principal of or interest on bonds during or after such acquisition or construction as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine;

"Department" means the Department of Environmental Protection;

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

"Project" or "water supply project" means any work relating to water supply facilities;

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

"Water supply facilities" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part, by or on behalf of the State or a local government unit, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water, and for the preservation and protection of these resources and facilities, and providing for the conservation and development of future water supply resources and facilitating incidental recreational uses thereof;

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

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

4. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$350,000,000.00 for the purposes of covering the costs of the department for planning and feasibility studies for ground and surface water programs, water delivery and treatment programs, the analysis and implementation of water conservation practices, or the updating of the New Jersey Statewide Water Supply Plan for planning, designing, and constructing State water supply facilities; and for providing loans to local government units to plan, design, and construct water supply facilities and to comply with the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.) and the federal "Safe Drinking Water Act Amendments of 1996," Pub. L.104-182; and for the rehabilitation, repair or consolidation of antiquated, damaged or inadequately operating water supply facilities, all as identified pursuant to the water supply project priority list adopted by the commissioner pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1) and section 7 of P.L.1997, c.223.

b. Payments of principal and interest on loans made from the "Water Supply Fund" shall be returned to that fund for use for any authorized purpose to which moneys in the fund may be used.

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

5. a. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as are necessary and appropriate to implement the provisions of this act, as amended and supplemented by P.L.1983, c.355 and P.L.1997, c.223. The commissioner shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

b. The department, or the New Jersey Water Supply Authority, as the case may be, shall develop a program to charge water supply users which benefit from any projects funded pursuant to this act, for the full cost of planning, designing, acquiring, constructing and operating that project. The department shall determine the appropriate proportion, if any, of planning and feasibility study costs directly attributable to a particular project to be included as part of the cost of that project.

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

10. a. The bonds shall recite that they are issued for the purposes set forth in subsection a. of section 4 of this act and that they are issued pursuant to this act and that this act was submitted to the people of the State at the general election held in the month of November, 1981, and that it received the approval of the majority of votes cast for and against it at the election. The bonds shall also recite, if issued after the effective date of P.L.1997, c.223, that the amendments and supplements to P.L.1981, c.261, as amended by P.L.1983, c.355, were submitted to the people of the State at the general election held in the month of November, 1997, and were approved by a majority of the legally qualified voters of the State voting thereon. These recitals shall be conclusive evidence of the authority of the State to issue the bonds and of their validity. Any bonds containing the recitals shall in any suit, action or proceeding involving their validity be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity therewith and with all other provisions of laws applicable thereto, and shall be incontestable for any cause.

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

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

14. The proceeds from the sale of the bonds authorized pursuant to section 4 of P.L.1981, c.261 shall be paid to the State Treasurer for deposit in a separate nonlapsing revolving fund,

which fund shall be known as the "Water Supply Fund."

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

15. a. The moneys in the "Water Supply Fund" are hereby specifically dedicated and shall be applied to the cost of the purposes set forth in subsection a. of section 4 of P.L.1981, c.261, and all such moneys are hereby appropriated for such purposes. However, no moneys in the fund shall be expended for those purposes, except as otherwise authorized by this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided notwithstanding that the Legislature shall not have then adopted an act making specific appropriation of any of the moneys. Any act appropriating moneys from the "Water Supply Fund" shall identify the particular project to be funded by the moneys. Payments of principal and interest on loans made from the "Water Supply Fund" shall be returned to that fund for use for any authorized purpose to which moneys in the fund may be used pursuant to subsection a. of section 4 of P.L.1981, c.261.

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

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

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

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

If the "New Jersey Environmental Infrastructure Trust Act" has not been enacted into law by the date of the approval of this act by the voters, paragraphs (1) (2) and (3) of this subsection shall be inoperative.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is hereby authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of the "Water Supply Fund" or the "Water Supply Trust Fund" those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, the moneys in the "Water Supply Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law, and moneys in the "Water Supply Trust Fund" may be invested and reinvested by the trust as are other trust funds in the custody of the trust. Net earnings received from the investment or deposit of moneys in the "Water Supply Fund" shall be paid to that fund, and net earnings received from the investment or deposit of moneys in the

"Water Supply Trust Fund" shall be paid to that fund for use by the trust to cover administrative expenses incurred in administering that fund. Any moneys not required for administrative expenses shall be used for any other authorized purpose to which moneys in the "Water Supply Trust Fund" may be used.

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

7. The commissioner shall, on or before January 15 of each year, develop and submit to the Legislature a priority system for water supply projects and shall establish the ranking criteria and funding policies for the projects therefor. The commissioner shall set forth a water supply project priority list for funding for each fiscal year and shall include the aggregate amount of funds to be authorized for these purposes. No moneys shall be expended for loans in a fiscal year for any water supply project unless the expenditure is authorized pursuant to an appropriations act.

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

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

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

9. a. All appropriations from the "Water Supply Fund" shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee or its successor.

b. Notwithstanding any other provision of P.L.1981, c.261, as amended and supplemented, the department is authorized to use monies in the "Water Supply Fund" for direct program administrative costs incurred in implementing the provisions of P.L.1981, c.261, as amended and supplemented, subject to the annual appropriation thereof by the Legislature. In no event may the Legislature appropriate to the Department of Environmental Protection or to any other State department or entity from the "Water Supply Fund," either directly or indirectly, any monies for indirect program costs or fringe benefit costs. The total sum of all appropriations to the Department of Environmental Protection and to any other State department or entity from the "Water Supply Fund" for direct program administrative costs may not exceed in any fiscal year the total sum of all appropriations that were made to the Department of Environmental Protection from the proceeds of bonds, interest, and loan repayments pursuant to P.L.1981, c.261, for direct program administrative costs, pursuant to P.L.1996, c.42, plus an annual increase of not more than three percent. In calculating the total sum of all appropriations made to the Department of Environmental Protection for direct program administrative costs pursuant to P.L.1996, c.42, the Legislature may not include any appropriations made for indirect program administrative costs and fringe benefit costs. The provisions of this subsection shall not affect the ability of the Trust to use monies for its administrative expenses as specifically provided in P.L.1981, c.261, as amended and supplemented.

10. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1997. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers are

published therein, and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

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

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

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

	<p>YES</p>	<p>AMENDS AND SUPPLEMENTS WATER SUPPLY BOND ACT OF 1981</p> <p>Shall the amendments and supplementary language to the "Water Supply Bond Act of 1981," which authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to use moneys from such bonds to provide loans and loan guarantees to local governments to plan, design, and construct water supply facilities, which limit the authority of the State to use bond moneys to cover administrative costs incurred therewith, which authorize the trust to use interest earnings on bond moneys to cover administrative costs incurred therewith, and which establish reserve and guarantee accounts in conjunction therewith, be approved?</p>
--	------------	---

	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>If approved, moneys from bonds issued under the "Water Supply Bond Act of 1981" could be used to make loans to local governments to finance the costs of water supply projects. The "Water Supply Bond Act of 1981" was approved by the voters in 1981 and again in 1983 in revised form. These proposed changes allow the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to use the bond moneys for a combined loan and loan guarantee program for water supply projects. The bill provides that the State would be limited in using bond moneys for administrative expenses and that the trust would be permitted to use interest earnings on bond moneys to cover its administrative expenses.</p> <p>Approval of these revisions to the "Water Supply Bond Act of 1981" would not involve any new State bonded indebtedness.</p>
--	----	--

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

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

11. There is appropriated, from the General Fund, the sum of \$5,000 to the Department of State for expenses in connection with the publication of the notice required pursuant to section 10 of P.L.1997, c.223.

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

Approved August 20, 1997.