

SENATE, No. 176

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator RICE

1 **AN ACT** concerning oversight of the Passaic Valley Sewerage
2 Commissioners, and supplementing chapter 14 of Title 58 of the
3 Revised Statutes.

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

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8 1. The provisions of section 16 of P.L.1953, c.388 (C.58:14-34.25)
9 and any other law, or any rule or regulation adopted pursuant thereto
10 to the contrary notwithstanding, the Department of Community Affairs
11 is hereby authorized to review the operations, policies, procedures,
12 rates and any other assessed charges of the Passaic Valley Sewerage
13 Commissioners, and shall arbitrate in any dispute between the
14 commissioners and a contracting municipality contesting the charges
15 being assessed against it. The review and arbitration authorized by
16 this act shall include the review and arbitration of any matters
17 involving the entity commonly known as the "Passaic Valley Sewerage
18 Commission."

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20 2. a. The Passaic Valley Sewerage Commissioners shall, within 90
21 days of the effective date of this act, submit to the Department of
22 Community Affairs and each of their contracting municipalities a
23 report of the basic terms and provisions of the service agreements and
24 contracts between the commissioners and each of their contracting
25 municipalities, an explanation of how the rates and other charges have
26 been derived pursuant to these contract provisions, the current method
27 for calculating the rate for a contracting municipality, and the
28 provisions and procedure, if any, for renegotiating any of these terms
29 or provisions and appealing the rate charge.

30 b. The Passaic Valley Sewerage Commissioners shall, within 90
31 days of the effective date of this act, submit to the Department of
32 Community Affairs and the Department of Environmental Protection
33 the financial records of the Passaic Valley Sewerage Commission for
34 the preceding five fiscal years, or for a longer time period as the
35 departments may require, including the rates calculated for each

1 contracting municipality and how they were calculated, the total
2 effluent, by class, processed by the commission and the total effluent,
3 by class, processed from each contracting municipality, the total
4 operating budget, operating costs, overhead expenses, staffing levels,
5 salaries and debt service of the commission, the total rate charges
6 assessed to each contracting municipality, and any other information
7 concerning the management and operation of the commission that the
8 departments may require.

9 c. The Department of Community Affairs, in consultation with the
10 Department of Environmental Protection, shall review the report and
11 records submitted pursuant to subsection a. and b. of this section and
12 shall, within one year of receipt of the report and records, report to the
13 Governor and the Legislature its determination as to whether the rates,
14 fees and charges assessed against municipalities are just, reasonable
15 and fair, its recommendations for any changes in these rates, fees,
16 charges or how they are determined, its recommendations for
17 improvement of the financial management of the commissioners, and
18 its recommendations for the improvement and protection of the
19 contractual and negotiating rights of the contracting municipalities.
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21 3. a. The provisions of section 16 of P.L.1953, c.388
22 (C.58:14-34.25) and any other law, or any rule or regulation adopted
23 pursuant thereto to the contrary notwithstanding, all meetings and
24 minutes of the Passaic Valley Sewerage Commissioners shall be open
25 and available to the public as of the effective date of this act. No rate,
26 fee or charge shall be increased except with the commissioners'
27 approval at a meeting of the commissioners, and no rate, fee or charge
28 shall become effective until the minutes of the meeting at which the
29 rate, fee or charge increase was approved have been approved by the
30 contracting member municipalities as provided in subsection c. of this
31 section.

32 b. Within 30 days of the effective date of this act, the
33 commissioners shall provide to the Department of Community Affairs
34 records of its total operating costs and the percentages of the costs
35 covered by each contracting member municipality, or information from
36 which these percentages can be estimated. Upon receipt of the records
37 and information, the department shall determine the percentage veto
38 to be assigned to each contracting member municipality based on the
39 percentage of the operating costs of the Passaic Valley Sewerage
40 Commission covered by its service rates, fees and other charges, and
41 shall notify each contracting member municipality of the veto powers
42 assigned to all the contracting member municipalities.

43 c. The commissioners shall notify each of its contracting member
44 municipalities of any meeting of the commissioners, in writing, at least
45 10 days in advance of the meeting. The notice shall contain the time,
46 date and place of the meeting and the agenda for the meeting. Each

1 contracting municipality shall have 30 days following the date of the
2 meeting to veto to any decision made at the meeting and file its veto
3 with the Department of Community Affairs. At the conclusion of the
4 30-day period, the department shall determine if a majority by
5 percentage veto power, as set pursuant to subsection b. of this section,
6 have vetoed the minutes and shall notify in writing the commissioners
7 and each of the contracting member municipalities of the veto action
8 taken on the minutes. If the minutes have been vetoed, the
9 Department of Community Affairs shall enter into arbitration with the
10 commissioners and the vetoing contracting member municipalities to
11 negotiate an agreement concerning the vetoed decisions. If no
12 agreement has been reached in 60 days, the Department of Community
13 Affairs shall set a deadline for final action concerning the dispute and,
14 in consultation with the Department of Environmental Protection, shall
15 make a determination concerning the disputed issues by that date.
16 The Department of Community Affairs' determination shall constitute
17 final action on the minutes and the vetoed decisions contained therein
18 and shall be binding on the commissioners and each contracting
19 member municipality.

20 d. No change in rates, fees or charges shall be in effect while final
21 action on the minutes concerning the rate, fee or charge is pending.

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23 4. This act shall take effect immediately.

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26 STATEMENT

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28 This bill would subject the Passaic Valley Sewerage Commissioners
29 and the Passaic Valley Sewerage Commission (PVSC) to Department
30 of Community Affairs (DCA) oversight. This bill also authorizes the
31 DCA to arbitrate in any dispute between the PVSC and any
32 municipality that is serviced by the PVSC. The DCA would arbitrate
33 and provide oversight in consultation with the Department of
34 Environmental Protection and Energy (DEPE).

35 This bill requires the Passaic Valley Sewerage Commissioners to
36 report to the Department of Community Affairs and their contracting
37 municipalities the contract provisions and methods of calculating rates
38 and charges within 90 days of the effective date of the act. This bill
39 also requires the commissioners to submit the financial records of the
40 PVSC to the DCA and the Department of Environmental Protection.
41 The DCA, in consultation with the DEPE, is required to review the
42 information and records and, within one year of the receipt of the
43 information and records, report to the Governor and the Legislature
44 on its determination as to whether the rates, fees and charges assessed
45 against municipalities are just, reasonable and fair, its
46 recommendations for any changes in these rates, fees, charges or how

1 they are determined, its recommendations for improvement of the
2 financial management of the commissioners, and its recommendations
3 for the improvement and protection of the contractual and negotiating
4 rights of the contracting municipalities.

5 This bill further requires all meetings and minutes of the
6 commissioners to be open and available to the public, gives the
7 contracting member municipalities veto powers over the minutes and
8 prohibits the increase of any rate, fee or charge except at a public
9 meeting of the commissioners. The DCA is directed to assign veto
10 percentage powers to each municipality based on information provided
11 to the DCA by the commissioners concerning the percentages of
12 operating costs covered by the service rates, fees and other charges
13 assessed on the municipalities. The commissioners must notify each
14 municipality in writing of any meeting at least 10 days in advance of
15 the meeting, and each municipality must notify the DCA of its veto
16 within 30 days of the meeting. At the conclusion of the 30-day period,
17 the DCA determines if the minutes have been vetoed by a majority of
18 percentage vetoes and notifies the municipalities and commissioners
19 of the outcome. If the minutes have been vetoed, the DCA arbitrates
20 between the vetoing municipalities and the commissioners until an
21 agreement is made. If no agreement is reached in 60 days, the DCA,
22 in consultation with the DEPE, is required to make a determination
23 and the determination constitutes final action on the minutes.

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28 Establishes DCA oversight of Passaic Valley Sewerage
29 Commissioners.