

SENATE, No. 422

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senators CIESLA and KYRILLOS

1 AN ACT amending and supplementing the "Water Supply Bond Act of
2 1981," as amended by P.L.1983, c.355, to authorize the
3 Department of Environmental Protection and the "New Jersey
4 Environmental Infrastructure Trust" to use bond moneys therefrom
5 to provide loans and loan guarantees to local government units to
6 plan, design, and construct water supply facilities to comply with
7 State and federal safe drinking water standards; providing for the
8 submission of this amendatory and supplementary act to the people
9 at a general election and making an appropriation.

10

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

13

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

15 3. As used in this act:

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

18 [b.] "Commission" means the New Jersey Commission on Capital
19 Budgeting and Planning;

20 [c.] "Commissioner" means the Commissioner of Environmental
21 Protection;

22 [d.] "Construct" and "construction" mean, in addition to the usual
23 meaning thereof, acts of construction, reconstruction, replacement,
24 extension, improvement and betterment;

25 [e.] "Cost" means the cost incurred by the department for planning
26 and feasibility studies for ground and surface water programs, water
27 delivery and treatment programs, analysis and implementation of water
28 conservation practices, [and] or for updating the New Jersey
29 Statewide Water Supply Plan[, the cost of]; or the expenses incurred
30 in connection with: the acquisition or construction of all or any part of
31 a project and all or any real or personal property, agreements and
32 franchises deemed by the department to be necessary or useful and
33 convenient therefor or in connection therewith, including interest or
34 discount on bonds, costs of issuance of bonds, cost of geological and

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 hydrological services, administrative cost, interconnection testing,
2 engineering and inspection costs and legal expenses, costs of financial,
3 professional and other estimates and advice, organization, operating
4 and other expenses prior to and during such acquisition or
5 construction, and all such other expenses as may be necessary or
6 incident to the financing, acquisition, construction and completion of
7 such project or part thereof and the placing of the same in operation,
8 and also such provisions for a reserve fund, or reserves for working
9 capital, operating, maintenance or replacement expenses and for the
10 payment or security of principal of or interest on bonds during or after
11 such acquisition or construction as the [State Comptroller] Director
12 of the Division of Budget and Accounting in the Department of the
13 Treasury may determine;

14 [f.] "Department" means the Department of Environmental
15 Protection;

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

23 [g.] "Project" or "water supply project" means any work relating to
24 [water supply facilities] any of the purposes enumerated in subsection
25 a. of section 4 of P.L.1981, c.261;

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

31 [i.] "Water supply facilities" means and refers to the real property
32 and the plants, structures, interconnections between existing water
33 supply facilities, machinery and equipment and other property, real,
34 personal and mixed, acquired, constructed or operated, or to be
35 acquired, constructed or operated, in whole or in part, by or on behalf
36 of the State, or of a political subdivision of the State or any agency
37 thereof, for the purpose of augmenting the natural water resources of
38 the State and making available an increased supply of water for all
39 uses, or of conserving existing water resources, and any and all
40 appurtenances necessary, useful or convenient for the collecting,
41 impounding, storing, improving, treating, filtering, conserving or
42 transmitting of water, and for the preservation and protection of these
43 resources and facilities, and providing for the conservation and
44 development of future water supply resources and facilitating
45 incidental recreational uses thereof;

46 "Trust" means the New Jersey Environmental Infrastructure Trust

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

3 (cf: P.L.1983, c.355, s.1)

4

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

6 4. a. Bonds of the State of New Jersey are authorized to be issued
7 in the aggregate principal amount of \$350,000,000.00 for the purposes
8 of (1) covering the costs of the department for planning and feasibility
9 studies for ground and surface water programs, water delivery and
10 treatment programs, the analysis and implementation of water
11 conservation practices, or the updating of the New Jersey Statewide
12 Water Supply Plan; [for] (2) planning, designing, and constructing
13 State water supply facilities; [and for] (3) providing loans [for] to
14 local [projects] government units to plan, design, and construct water
15 supply facilities [to resolve contamination problems], as identified by
16 the department, to comply with existing and more stringent future
17 requirements of the federal Safe Drinking Water Act and the "Safe
18 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any
19 rules, regulations or standards adopted pursuant thereto; and [for] (4)
20 the rehabilitation, repair or consolidation of antiquated, damaged or
21 inadequately operating water supply facilities, all as identified pursuant
22 to the water supply project priority list adopted by the commissioner
23 pursuant to section 28 of P.L. , c. (C.) (before the
24 Legislature as Senate Bill No. 468 of 1996) and section 7 of P.L. ,
25 c. (before the Legislature as this bill), and as recommended by the
26 New Jersey Statewide Water Supply Plan.

27 b. Payments of principal and interest on loans made from the
28 "Water Supply Fund" shall be returned to that fund for use for any
29 authorized purpose to which moneys in the fund may be used pursuant
30 to P.L. , c. (before the Legislature as this bill).

31 (cf: P.L.1983, c.355, s.2)

32

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

34 5. a. The commissioner shall adopt, pursuant to the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.), such rules and regulations as are necessary and appropriate to
37 [carry out] implement the provisions of this act, as amended and
38 supplemented by P.L. , c. (before the Legislature as this bill). The
39 commissioner shall review and consider the findings and
40 recommendations of the commission in the administration of the
41 provisions of this act.

42 b. The department, or the New Jersey Water Supply Authority, as
43 the case may be, shall develop a program to charge water supply users
44 which benefit from any projects funded pursuant to this act, for the full
45 cost of planning, designing, acquiring, constructing and operating that
46 project. The department shall determine the appropriate proportion, if

1 any, of planning and feasibility study costs directly attributable to a
2 particular project to be included as part of the cost of that project.

3 (cf: P.L.1983, c.355, s.3)

4

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

6 10. a. The bonds shall recite that they are issued for the purposes
7 set forth in subsection a. of section 4 of this act and that they are
8 issued [in pursuance] pursuant to this act and that this act was
9 submitted to the people of the State at the general election held in the
10 month of November, 1981, and that it received the approval of the
11 majority of votes cast for and against it at [such] the election. [Such
12 recital in said bonds] The bonds shall also recite, if issued after the
13 effective date of P.L. , c. (before the Legislature as this bill), that
14 the amendments and supplements to P.L.1981, c.261, as amended by
15 P.L.1983, c.355, were submitted to the people of the State at the
16 general election held in the month of November, 1996, and were
17 approved by a majority of the legally qualified voters of the State
18 voting thereon. These recitals shall be conclusive evidence of the
19 authority of the State to issue [said] the bonds and of their validity.
20 Any bonds containing [such recital] the recitals shall in any suit, action
21 or proceeding involving their validity be conclusively deemed to be
22 fully authorized by this act and to have been issued, sold, executed and
23 delivered in conformity therewith and with all other provisions of
24 [statutes] laws applicable thereto, and shall be incontestable for any
25 cause.

26 b. [Such] The bonds shall be issued in [such] those denominations
27 and in [such] the form or forms, whether coupon [or registered as to
28 both principal and interest], fully-registered or book-entry, and with
29 or without [such] provisions for the interchangeability thereof, as may
30 be determined by the issuing officials.

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

32

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

34 14. The proceeds from the sale of the bonds authorized pursuant
35 to section 4 of P.L.1981, c.261 shall be paid to the State Treasurer
36 [and be held by him] for deposit in a separate nonlapsing revolving
37 fund, [and be deposited in such depositories as may be selected by him
38 to the credit of the fund,]which fund shall be known as the "Water
39 Supply Fund," for use by the department as hereinafter provided.

40 (cf. P.L.1981, c.261, s.14)

41

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

43 15. a. The moneys in [said] the "Water Supply Fund" are hereby
44 specifically dedicated and shall be applied to the cost of the purposes
45 set forth in subsection a. of section 4 of [this act] P.L.1981, c.261, and
46 all such moneys are hereby appropriated for such purposes[, and no

1 such moneys]. However, no moneys in the fund shall be expended for
2 [such] those purposes[(except as otherwise hereinbelow authorized)],
3 except as otherwise authorized by this act, without the specific
4 appropriation thereof by the Legislature, but bonds may be issued as
5 herein provided notwithstanding that the Legislature shall not have
6 then adopted an act making specific appropriation of any [said] of the
7 moneys. Any act appropriating moneys from the "Water Supply Fund"
8 shall identify the particular project to be funded by [such] the moneys.
9 Payments of principal and interest on loans made from the "Water
10 Supply Fund" shall be returned to that fund for use for any authorized
11 purpose to which moneys in the fund may be used pursuant to
12 subsection a. of section 4 of P.L.1981, c.261.

13 (1) Payments of principal and interest on loans returned to the
14 "Water Supply Fund" may be made available to the trust, with the
15 concurrence of the department, for temporary use by the trust for any
16 of the purposes set forth in paragraph (2) of this subsection, under
17 terms and conditions established therefor by the commissioner and the
18 trust and approved by the State Treasurer. A maximum of
19 \$50,000,000 may be made available to the trust for these purposes.

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

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

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

1 If the "New Jersey Environmental Infrastructure Trust Act" (before
2 the Legislature as Senate Bill No. 468 of 1996) has not been enacted
3 into law by the date of the approval of this act by the voters,
4 paragraphs (1) (2) and (3) of this subsection shall be inoperative.

5 b. At any time prior to the issuance and sale of bonds under this
6 act, the State Treasurer is hereby authorized to transfer from any
7 available [money] moneys in any fund of the Treasury of the State to
8 the credit of the "Water Supply Fund" [such sum as he] or the "Water
9 Supply Trust Fund" those sums as the State Treasurer may deem
10 necessary. [Said sum] The sums so transferred shall be returned to the
11 same fund of the treasury of [this] the State by the [treasurer thereof]
12 State Treasurer from the proceeds of the sale of the first issue of
13 bonds.

14 c. Pending their application to the [purpose] purposes provided in
15 this act, the moneys in the "Water Supply Fund" may be invested and
16 reinvested as are other trust funds in the custody of the State
17 Treasurer, in the manner provided by law, and moneys in the "Water
18 Supply Trust Fund" may be invested and reinvested by the trust as are
19 other trust funds in the custody of the [State Treasurer in the manner
20 provided by law] trust. Net earnings received from the investment or
21 deposit of [such fund shall be paid into the General State Fund]
22 moneys in the "Water Supply Fund" shall be paid to that fund for use
23 by the department to cover administrative expenses incurred in
24 administering that fund, and net earnings received from the investment
25 or deposit of moneys in the "Water Supply Trust Fund" shall be paid
26 to that fund for use by the trust to cover administrative expenses
27 incurred in administering that fund. Any moneys not required for
28 administrative expenses shall be used for any other authorized purpose
29 to which moneys in the respective funds may be used.

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

38 (cf: P.L.1981, c.261, s.15)

39
40 7. (New section) The commissioner shall, on or before January 15
41 of each year, develop and submit to the Legislature a priority system
42 for water supply projects and shall establish the ranking criteria and
43 funding policies for the projects therefor. The commissioner shall set
44 forth a water supply project priority list for funding for each fiscal year
45 and shall include the aggregate amount of funds to be authorized for
46 these purposes. The commissioner shall not include a water supply

1 project on the project priority list for funding unless that specific
2 project shall have been recommended by the New Jersey Statewide
3 Water Supply Plan. No moneys shall be expended for loans in a fiscal
4 year for any water supply project unless the expenditure is authorized
5 pursuant to an appropriations act.

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

12

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

14 26. Not less than 30 days prior to the commissioner or the trust
15 entering into any contract, lease, obligation, or agreement to effectuate
16 the purposes of this act, the commissioner or the trust shall report to
17 and consult with the [special joint legislative committee created
18 pursuant to Assembly Concurrent Resolution No. 66 of the 1968
19 Legislature as reconstituted and continued from time to time by the
20 Legislature] Joint Budget Oversight Committee, or its successor.
21 (cf: P.L.1981, c.261, s.26)

22

23 9. (New section) All appropriations from the "Water Supply Fund"
24 shall be by specific allocation for each project, and any transfer of any
25 funds so appropriated shall require the approval of the Joint Budget
26 Oversight Committee or its successor.

27

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

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

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

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

1		AMENDS AND SUPPLEMENTS WATER
2		SUPPLY BOND ACT OF 1981
3		Shall the amendments and supplementary
4		language to the "Water Supply Bond Act of
5		1981," which authorize the Department of
6		Environmental Protection and the New Jersey
7		Environmental Infrastructure Trust to use
8	YES	such bonds to provide loans and loan
9		guarantees to local governments to plan,
10		design, and construct water supply facilities to
11		comply with State and federal safe drinking
12		water standards, and to establish reserve and
13		guarantee accounts in conjunction therewith,
14		be approved?
15		INTERPRETIVE STATEMENT
16		Approval of this act would authorize the use
17		of moneys from bonds issued under the
18		"Water Supply Bond Act of 1981" to make
19		loans to local governments to finance the
20		costs of water supply projects needed to
21		comply with State and federal safe drinking
22		water standards. The "Water Supply Bond
23		Act of 1981" was approved by the voters in
24		1981 and again in 1983 in revised form. The
25	NO	proposed revisions to the "Water Supply
26		Bond Act of 1981" in this act authorize the
27		Department of Environmental Protection and
28		the New Jersey Environmental Infrastructure
29		Trust to use the bond moneys for a combined
30		loan and loan guarantee program for water
31		supply projects.
32		Approval of these revisions to the "Water
33		Supply Bond Act of 1981" would not involve
34		any new State bonded indebtedness.

35

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

40 The votes so cast for and against the approval of this amendatory
 41 act, by ballot or voting machine, shall be counted and the result
 42 thereof returned by the election officer, and a canvass of the election
 43 had in the same manner as is provided for by law in the case of the
 44 election of a Governor, and the approval or disapproval of this act so
 45 determined shall be declared in the same manner as the result of an

1 election for a Governor, and if there is a majority of all the votes cast
2 for and against it at the election in favor of the approval of this
3 amendatory and supplementary act, then all the provisions thereof not
4 made effective theretofore shall take effect forthwith.

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

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

14
15
16 STATEMENT

17
18 This bill amends and supplements the "Water Supply Bond Act of
19 1981," P.L.1981, c.261, to allow the Department of Environmental
20 Protection (DEP) and the New Jersey Environmental Infrastructure
21 Trust (Trust) to utilize bond moneys made available therefrom for
22 loans to local governments for the development of water supply
23 facilities to comply with existing and more stringent future
24 requirements of the federal Safe Drinking Water Act and the "Safe
25 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.). To
26 qualify for financing, a project must be identified in the water supply
27 project priority list adopted by the Commissioner of DEP pursuant to
28 section 7 of the bill, and recommended by the New Jersey Statewide
29 Water Supply Plan.

30 The 1981 bond act was approved in November 1981 (and again in
31 November 1983 pursuant to P.L.1983, c.355) by the voters of New
32 Jersey. The proposed revisions to the "Water Supply Bond Act of
33 1981" embodied in this bill must also be approved by the electorate.

34 The bill authorizes the use of bond act moneys to capitalize two
35 separate nonlapsing revolving funds: the "Water Supply Fund" and the
36 "Water Supply Trust Fund."

37 The moneys in the "Water Supply Fund" would be used by the DEP
38 for the purposes of:

39 (1) covering the department's costs for planning and feasibility
40 studies for ground and surface water programs, water delivery and
41 treatment programs, the analysis and implementation of water
42 conservation practices, or for updating the New Jersey Statewide
43 Water Supply Plan;

44 (2) planning, designing, and constructing State water supply
45 facilities;

46 (3) providing loans to local governments to plan, design, and

1 construct water supply facilities, as identified by the department, to
2 comply with existing and more stringent future federal and State safe
3 drinking water requirements; and

4 (4) the rehabilitation, repair or consolidation of antiquated,
5 damaged or inadequately operating water supply facilities.

6 Projects must be identified pursuant to the water supply project
7 priority list adopted by the Commissioner, and as recommended by the
8 New Jersey Statewide Water Supply Plan.

9 Payments of principal and interest on loans returned to the "Water
10 Supply Fund" may be made available to the Trust, with the
11 concurrence of the DEP, for temporary use by the Trust in establishing
12 a reserve account for loans made by the Trust, and a guarantee
13 account to secure debt issued by local governments in connection with
14 the financing of a water supply project. A maximum of \$50,000,000
15 may be made available to the Trust for these purposes.

16 Any moneys made available to the Trust would be deposited in a
17 separate nonlapsing revolving fund known as the "Water Supply Trust
18 Fund." The Trust would have to repay to the "Water Supply Fund" any
19 moneys made available for temporary use.

20 The bill would also: (1) authorize the DEP and the Trust to collect
21 administrative fees in administering the respective funds and services
22 rendered in connection therewith; (2) delegate to DEP responsibility
23 for administering the Water Supply Fund; (3) authorize the department
24 and the Trust to use income earned on moneys deposited in their
25 respective funds to cover unreimbursed administrative expenses; (4)
26 authorize temporary cross-use by the department and Trust of moneys
27 in the two funds; and (5) require the department and Trust to provide
28 annual accounts of moneys expended from their respective funds.

29 The bill also provides that if the "New Jersey Environmental
30 Infrastructure Trust Act" (a companion measure, Senate Bill No. 468
31) has not been enacted into law by the date of the approval of this act
32 by the voters, the amendments made to the 1981 bond act pertaining
33 to the Trust would remain inoperative.

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37

38 Amends and supplements the "Water Supply Bond Act of 1981."