

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 422

STATE OF NEW JERSEY

ADOPTED DECEMBER 16, 1996

Sponsored 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] for updating the New Jersey Statewide
29 Water Supply Plan, for the cost of acquisition or construction of all or
30 any part of a project and all or any real or personal property,
31 agreements and franchises deemed by the department to be necessary
32 or useful and convenient therefor or in connection therewith, including

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

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

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

24 [g.] "Project" or "water supply project" means any work relating
25 to water supply facilities;

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] or a local government unit, for the purpose of augmenting the
38 natural water resources of the State and making available an increased
39 supply of water for all uses, or of conserving existing water resources,
40 and any and all appurtenances necessary, useful or convenient for the
41 collecting, impounding, storing, improving, treating, filtering,
42 conserving or transmitting of water, and for the preservation and
43 protection of these resources and facilities, and providing for the
44 conservation and development of future water supply resources and
45 facilitating incidental recreational uses thereof;

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

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

5

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

7 4. a. Bonds of the State of New Jersey are authorized to be issued
8 in the aggregate principal amount of \$350,000,000.00 for the purposes
9 of covering the costs of the department for planning and feasibility
10 studies for ground and surface water programs, water delivery and
11 treatment programs, the analysis and implementation of water
12 conservation practices, or the updating of the New Jersey Statewide
13 Water Supply Plan[:] for planning, designing, and constructing State
14 water supply facilities; and for providing loans [for] to local [projects]
15 government units to plan, design, and construct water supply facilities
16 [to resolve contamination problems as identified by the department]
17 and to comply with the "Safe Drinking Water Act," P.L.1977, c.224
18 (C.58:12A-1 et seq.) and the federal "Safe Drinking Water Act
19 Amendments of 1996," Pub. L.104-182; and for the rehabilitation,
20 repair or consolidation of antiquated, damaged or inadequately
21 operating water supply facilities, all as identified pursuant to the water
22 supply project priority list adopted by the commissioner pursuant to
23 section 24 of P.L. , c. (C.) (pending in the Legislature as
24 Assembly Bill No.1511 of 1996) and section 7 of P.L. , c.
25 (pending in the Legislature as this bill) [as recommended by the New
26 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 .

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

31

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

33 5. a. The commissioner shall adopt, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), such rules and regulations as are necessary and appropriate to
36 [carry out] implement the provisions of this act, as amended and
37 supplemented by P.L.1983, c.355 and P.L. , c. (pending in the
38 Legislature as this bill). The commissioner shall review and consider
39 the findings and recommendations of the commission in the
40 administration of the provisions of this act.

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

1 if 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. (pending in the Legislature as this bill),
14 that the amendments and supplements to P.L.1981, c.261, as amended
15 by P.L.1983, c.355, were submitted to the people of the State at the
16 general election held in the month of November, 1997, 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."

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

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

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

18 (1) Payments of principal and interest on loans returned to the
19 "Water Supply Fund" may be made available to the trust, with the
20 concurrence of the department, for temporary use by the trust for any
21 of the purposes set forth in paragraph (2) of this subsection, under
22 terms and conditions established therefor by the commissioner and the
23 trust and approved by the State Treasurer. A maximum of
24 \$50,000,000 may be made available to the trust for these purposes.

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

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

1 therefor by the commissioner and the trust and approved by the State
2 Treasurer. The department shall repay to the "Water Supply Trust
3 Fund" any sums made available for temporary use. Repayment shall be
4 in accordance with the terms and conditions approved therefor.

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

7 If the "New Jersey Environmental Infrastructure Trust Act"
8 (pending in the Legislature as Assembly Bill No. 1511 of 1996) has
9 not been enacted into law by the date of the approval of this act by the
10 voters, paragraphs (1) (2) and (3) of this subsection shall be
11 inoperative.

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

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

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

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

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

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

15

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

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

24 (cf: P.L.1981, c.261, s.26)

25

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

30 b. Notwithstanding any other provision of P.L.1981, c.261, as
31 amended and supplemented, the department is authorized to use
32 monies in the "Water Supply Fund" for direct program administrative
33 costs incurred in implementing the provisions of P.L.1981, c.261, as
34 amended and supplemented, subject to the annual appropriation
35 thereof by the Legislature. In no event may the Legislature
36 appropriate to the Department of Environmental Protection or to any
37 other State department or entity from the "Water Supply Fund," either
38 directly or indirectly, any monies for indirect program costs or fringe
39 benefit costs. The total sum of all appropriations to the Department
40 of Environmental Protection and to any other State department or
41 entity from the "Water Supply Fund" for direct program administrative
42 costs may not exceed in any fiscal year the total sum of all
43 appropriations that were made to the Department of Environmental
44 Protection from the proceeds of bonds, interest, and loan repayments
45 pursuant to P.L.1981, c.261, for direct program administrative costs,

1 pursuant to P.L.1996, c.42, plus an annual increase of not more than
2 three percent. In calculating the total sum of all appropriations made
3 to the Department of Environmental Protection for direct program
4 administrative costs pursuant to P.L.1996, c.42, the Legislature may
5 not include any appropriations made for indirect program
6 administrative costs and fringe benefit costs. The provisions of this
7 subsection shall not affect the ability of the Trust to use monies for its
8 administrative expenses as specifically provided in P.L.1981, c.261, as
9 amended and supplemented.

10

11 10. (New section) For the purpose of complying with the
12 provisions of the State Constitution, this act shall be submitted to the
13 people at the general election to be held in the month of November,
14 1997. To inform the people of the contents of this act, it shall be the
15 duty of the Secretary of State, after this section takes effect, and at
16 least 60 days prior to the election, to cause this act to be published at
17 least once in one or more newspapers of each county, if any
18 newspapers are published therein, and to notify the clerk of each
19 county of this State of the passage of this act; and the clerks
20 respectively, in accordance with the instructions of the Secretary of
21 State, shall have printed on each of the ballots the following:

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

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

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

1		AMENDS AND SUPPLEMENTS WATER SUPPLY BOND ACT OF 1981
2	YES	<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>
19	NO	<p>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 monies 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>

41

42 The fact and date of the approval or passage of this act, as the case
43 may be, may be inserted in the appropriate place after the title in the
44 ballot. No other requirements of law of any kind or character as to

1 notice or procedure, except as herein provided, need be adhered to.

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

12

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

17

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

21

22

23

24

25 Amends and Supplements the "Water Supply Bond Act of 1981,"
26 appropriates \$5,000.