

SENATE, No. 468

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senators KYRILLOS and CIESLA

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 and
11 powers thereof, including the authorization to issue bonds, notes and
12 other obligations and to establish any reserve funds necessary therefor,
13 and to make loans to and guarantee debt incurred by local government
14 units for [wastewater treatment system] environmental infrastructure
15 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
31 construction, rehabilitation, operation, and maintenance of modern and
32 efficient sewer systems and wastewater treatment plants are essential
33 to protecting and improving the State's water quality; that in addition
34 to protecting and improving water quality, adequate wastewater

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

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

39 The Legislature further finds that funding at the federal level for
40 wastewater treatment, stormwater management and combined sewer
41 system rehabilitation projects is insufficient; that State funds available
42 for these projects are inadequate to meet current needs; that local
43 revenues are insufficient to meet these expenses; and that additional
44 funding at the State level is necessary to meet this financial obligation.

45 c. The Legislature finds that the proper in-state disposal of solid
46 waste and the maximum practical recovery of recyclable materials from

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

10 The Legislature further finds that the environmentally sound and
11 proper closure of municipal solid waste landfills, including the
12 remediation of contamination problems posed by terminated but
13 improperly closed municipal landfills, is a governmental function
14 affected with the public interest; that while the "Sanitary Landfill
15 Facility Closure and Contingency Fund Act," P.L.1981, c.306
16 (C.13:1E-100 et seq.) provided a means by which the owners and
17 operators of sanitary landfill facilities would provide financial
18 assurance for proper closure, it provides no funds for municipal solid
19 waste landfills terminated prior to its enactment; that while the
20 responsibility for the proper closure of municipal solid waste landfills
21 that ceased operating prior to the enactment of P.L.1981, c.306 should
22 ideally rest with the users thereof, the considerable closing costs,
23 including the cost of remediating contamination problems, required to
24 ensure the proper closure of these facilities are, in many cases, beyond
25 the financial capabilities of affected municipalities; that the various
26 environmental problems resulting from terminated municipal landfills,
27 including methane gas migration, soil erosion, and ground and surface
28 water contamination, affect the quality of life of all citizens of this
29 State; and that since the proper closure and post-closure care required
30 at each terminated municipal landfill will ultimately enhance the quality
31 of life of all citizens of New Jersey, the State has the responsibility to
32 provide financial assistance to municipalities to stabilize these costs in
33 an efficient and equitable manner.

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

41 The Legislature therefore determines that it is appropriate for the
42 State to encourage local governments to undertake solid waste
43 management projects, landfill mining projects and the environmentally
44 sound closure of municipal solid waste landfills, including the cost of
45 remediating contamination problems posed by terminated but
46 improperly closed municipal landfills, and in the public interest to

1 establish a State mechanism to provide loans at the lowest reasonable
2 interest rates and to guarantee or insure local capital improvement
3 bonds for these purposes.

4 d. The Legislature finds that construction, rehabilitation, operation
5 and maintenance of modern and efficient water supply facilities are
6 essential to protecting and improving the State's water quality; that the
7 citizens of this State, in recognition of the crucial role the construction
8 of new and the upgrading of existing water supply facilities play in
9 maintaining and augmenting the natural water resources of the State,
10 and with an understanding that the cost of financing and constructing
11 these systems is beyond the limited financial resource capabilities of
12 local governments and authorities and must be subsidized by the State
13 and repaid through a system of water supply user charges, approved
14 the enactment of the "Water Supply Bond Act of 1981" (P.L.1981,
15 c.261); that the water supply needs of the State are so great that the
16 funds allocated for this purpose from the "Water Supply Fund"
17 established by that 1981 bond act should be augmented and
18 maximized, to the extent practicable, through the use of alternative
19 methods of State financing to offset the costs of water supply projects
20 and for the construction of new or the rehabilitation of antiquated or
21 inadequate existing water supply facilities.

22 e. The Legislature therefore determines that it is in the public
23 interest to establish a State authority authorized to issue bonds, notes
24 and other obligations and to establish any reserve funds necessary
25 therefor, and to make loans to and guarantee debt incurred by local
26 government units for [wastewater treatment system] environmental
27 infrastructure projects.

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

29

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

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

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

38 "Closure" means all activities associated with the design, purchase,
39 construction or maintenance of all measures required by the
40 department, pursuant to law, in order to remediate, prevent, minimize
41 or monitor pollution or health hazards resulting from municipal solid
42 waste landfills subsequent to the termination of operations at any
43 portion thereof, including, but not limited to, the placement of final
44 earthen or vegetative cover, groundwater remediation, the installation
45 of methane gas vents or monitors and leachate monitoring wells or
46 collection systems, and long-term operations and maintenance;

1 "Combined sewer system" means a sewer system designed to carry
2 sanitary sewage at all times, which is also designed to collect and
3 transport stormwater runoff from streets and other sources, thereby
4 serving a combined purpose;

5 "Combined sewer overflow" means the discharge of untreated or
6 partially treated stormwater runoff and wastewater from a combined
7 sewer into a body of water;

8 "Commercial solid waste" means any nonhazardous solid waste
9 derived from wholesale, retail or service establishments, including
10 stores, markets, theaters, offices, restaurants, warehouses, or from
11 other non-manufacturing commercial activities;

12 [b.] "Commissioner" means the Commissioner of the Department
13 of Environmental Protection;

14 "Composting facility" means a solid waste facility at which the
15 organic components of solid waste are processed and separated
16 utilizing manual or mechanical methods and broken down into their
17 chemical elements and compounds to form humus for the purposes of
18 beneficial use or reuse as approved by the department;

19 [c.] "Cost" means the cost of all labor, materials, machinery and
20 equipment, lands, property, rights and easements, financing charges,
21 interest on bonds, notes or other obligations, plans and specifications,
22 surveys or estimates of costs and revenues, engineering and legal
23 services, and all other expenses necessary or incident to all or part of
24 [a wastewater treatment system] an environmental infrastructure
25 project;

26 [d.] "Department" means the Department of Environmental
27 Protection;

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

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

45 "Household solid waste" means any solid waste derived from
46 households, including but not limited to single and multiple residences,

1 hotels and motels, bunkhouses, ranger stations, crew quarters,
2 campgrounds, picnic grounds and day use recreation areas, except that
3 "household solid waste" shall not include septic waste as defined in
4 section 3 of P.L.1970, c.40 (C.48:13A-3):

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

11 "Landfill mining project" means any work relating to the
12 environmentally sound excavation and removal of materials from a
13 sanitary landfill facility for the purposes of recycling, use, reuse, sale,
14 or composting that meets the requirements set forth in sections 25, 26,
15 27 and 33 of P.L. , c. (C.)(before the Legislature as this bill);

16 [e.] "Local government unit" means (1) a county, municipality,
17 municipal or county sewerage or utility authority, municipal sewerage
18 district, joint meeting, improvement authority, or any other political
19 subdivision authorized to construct, operate and maintain wastewater
20 treatment systems; (2) a county, designated agency, public authority
21 or any other political subdivision of the State authorized to construct,
22 operate or maintain a resource recovery facility, composting facility,
23 materials recovery facility, recycling center, or an environmentally
24 sound sanitary landfill facility; (3) a county, municipality, designated
25 agency, public authority or any other political subdivision of the State
26 authorized to undertake a landfill mining project or a municipal solid
27 waste landfill closure project, and to borrow money therefor; or (4) a
28 State authority, district water supply commission, county,
29 municipality, municipal or county utilities authority, municipal water
30 district, joint meeting or any other political subdivision of the State
31 authorized pursuant to law to operate or maintain a public water
32 supply system or to construct, rehabilitate, operate or maintain water
33 supply facilities or otherwise provide water for human consumption;

34 "Materials recovery facility" means a transfer station or other
35 authorized solid waste facility at which nonhazardous solid waste,
36 which material is not source separated by the generator thereof prior
37 to collection, is received for onsite processing and separation utilizing
38 manual or mechanical methods for the purposes of recovering
39 compostable, reusable or recyclable materials for disposition and
40 recycling prior to the disposal of the residual solid waste at an
41 authorized solid waste facility;

42 "Municipal solid waste landfill" means a landfill that received for
43 disposal household solid waste and at least one of the following: (1)
44 commercial solid waste; (2) industrial solid waste; or (3) waste
45 material that was received for disposal prior to October 21, 1976 and
46 that is included within the definition of hazardous waste adopted by

1 the federal government pursuant to the "Resource Conservation and
2 Recovery Act," at 42 U.S.C. §6921; except that "municipal solid waste
3 landfill" shall not include any landfill that is approved for disposal of
4 hazardous waste and regulated pursuant to Subchapter III of the
5 "Resource Conservation and Recovery Act," 42 U.S.C. §6921 et seq;

6 "Municipal solid waste landfill closure project" means any work
7 relating to the environmentally sound and proper closure of a
8 municipal solid waste landfill that meets the requirements set forth in
9 sections 25, 26, 27 and 32 of P.L. , c. (C.) (before the
10 Legislature as this bill);

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

14 [g.] "Project" or "environmental infrastructure project" means the
15 acquisition, construction, improvement, repair or reconstruction of all
16 or part of any structure, facility or equipment, or real or personal
17 property necessary for or ancillary to any (1) wastewater treatment
18 system [which meets the requirements set forth in sections 20, 21 and
19 22 of this act] project, including any stormwater management or
20 combined sewer overflow abatement projects; (2) solid waste
21 management project, including any landfill mining project or municipal
22 solid waste landfill closure project; or (3) water supply project, as
23 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or
24 P.L. , c. (C.)(before the Legislature as this bill);

25 "Public authority" means a solid waste management authority
26 created pursuant to the "solid waste management authorities law,"
27 P.L.1968, c.249 (C.40:66A-32 et seq.); a municipal or county utilities
28 authority created pursuant to the "municipal and county utilities
29 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); an incinerator
30 authority created pursuant to the "incinerator authorities law,"
31 P.L.1948, c.348 (C.40:66A-1 et seq.); a county improvement authority
32 created pursuant to the "county improvement authorities law,"
33 P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control financing
34 authority created pursuant to the "New Jersey Pollution Control
35 Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any other
36 public body corporate and politic created for solid waste management
37 purposes in any county or municipality pursuant to the provisions of
38 any law;

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

42 "Recycling center" means any facility designed and operated solely
43 for receiving, storing, processing or transferring source separated
44 recyclable materials;

45 "Resource recovery facility" means a solid waste facility
46 constructed and operated for the incineration of solid waste for energy

1 production and the recovery of metals and other materials for reuse,
2 or a mechanized composting facility, or any other facility constructed
3 or operated for the collection, separation, recycling, and recovery of
4 metals, glass, paper, and other recyclable materials for reuse or for
5 energy production, and which is identified and included in a district
6 solid waste management plan pursuant to the provisions of the "Solid
7 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.);

8 "Sanitary landfill facility" means a solid waste facility at which solid
9 waste is deposited on or in the land as fill for the purpose of
10 permanent disposal or storage for a period exceeding six months,
11 except that it shall not include any waste facility approved for the
12 disposal of hazardous waste;

13 "Small water company" means any company, purveyor or entity,
14 other than a governmental agency, that provides water for human
15 consumption and which regularly serves less than 1,000 customer
16 connections;

17 "Solid waste management project" means any work relating to the
18 acquisition, construction, improvement, repair or reconstruction of all
19 or part of any structure, facility or equipment, or real or personal
20 property necessary for or ancillary to any resource recovery facility,
21 composting facility, materials recovery facility, recycling center, or
22 environmentally sound sanitary landfill facility that meets the
23 requirements set forth in sections 25, 26 and 27 of P.L. _____, c. _____
24 (C. _____)(before the Legislature as this bill); any work relating
25 to any municipal solid waste landfill closure project that meets the
26 requirements set forth in sections 25, 26, 27 and 32 of P.L. _____, c. _____
27 (C. _____)(before the Legislature as this bill); or any work relating
28 to any landfill mining project that meets the requirements set forth in
29 sections 25, 26, 27 and 33 of P.L. _____, c. _____ (C. _____)(before
30 the Legislature as this bill);

31 "Stormwater management system" means any equipment, plants,
32 structures, machinery, apparatus, management practices, or land, or
33 any combination thereof, acquired, used, constructed, implemented or
34 operated by a local government unit to prevent nonpoint source
35 pollution, abate improper cross-connections and interconnections
36 between stormwater and sewer systems, minimize stormwater runoff,
37 reduce soil erosion, or induce groundwater recharge, or any
38 combination thereof;

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

42 [i.] "Wastewater" means residential, commercial, industrial, or
43 agricultural liquid waste, [sewerage] sewage, septage, stormwater
44 runoff, or any combination thereof, or other liquid residue discharged
45 or collected into a sewer system or stormwater [runoff] management
46 system, or any combination thereof;

1 [j.] "Wastewater treatment system" means any equipment, plants,
2 structures, machinery, apparatus, or land, or any combination thereof,
3 acquired, used, constructed or operated by, or on behalf of, a local
4 government unit for the storage, collection, reduction, recycling,
5 reclamation, disposal, separation, or other treatment of wastewater or
6 sewage sludge, or for the [separate] collection or treatment, or both,
7 of stormwater runoff and [sewerage] wastewater, or for the final
8 disposal of residues resulting from the treatment of wastewater,
9 including, but not limited to, pumping and ventilating stations,
10 treatment plants and works, connections, outfall sewers, interceptors,
11 trunk lines, stormwater [runoff collection] management systems, and
12 other personal property and appurtenances necessary for their use or
13 operation; "wastewater treatment system" shall include a stormwater
14 management system or a combined sewer system;

15 "Wastewater treatment system project" means any work relating to
16 the acquisition, construction, improvement, repair or reconstruction
17 of all or part of any structure, facility or equipment, or real or personal
18 property necessary for or ancillary to any wastewater treatment system
19 that meets the requirements set forth in sections 20, 21 and 22 of
20 P.L.1985, c.334 (C.58:11B-20, 58:11B-21 and 58:11B-22); or any
21 work relating to any of the stormwater management or combined
22 sewer overflow abatement projects identified in the stormwater
23 management and combined sewer overflow abatement project priority
24 list adopted by the commissioner pursuant to section 28 of P.L.1989,
25 c.181; or any work relating to any other project eligible for financing
26 under the Federal Water Pollution Control Act Amendments of 1972
27 (33 U.S.C. §1251 et seq.), or any amendatory or supplementary acts
28 thereto;

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

45 "Water supply project" means any work relating to the acquisition,
46 construction, improvement, repair or reconstruction of all or part of

1 any structure, facility or equipment, or real or personal property
2 necessary for or ancillary to water supply facilities that meets the
3 requirements set forth in sections 28, 29 and 30 of P.L. , c.
4 (C.)(before the Legislature as this bill); or any work relating to
5 the purposes set forth in section 4 of P.L.1981, c.261.
6 (cf: P.L.1985, c.334, s.3)

7

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

10 4. a. There is established in, but not of, the Department of
11 Environmental Protection a body corporate and politic, with corporate
12 succession, to be known as the "New Jersey [Wastewater Treatment]
13 Environmental Infrastructure Trust." The trust is constituted as an
14 instrumentality of the State exercising public and essential
15 governmental functions, no part of whose revenues shall accrue to the
16 benefit of any individual, and the exercise by the trust of the powers
17 conferred by [this act] the provisions of P.L.1985, c.334 (C.58:11B-1
18 et seq.) or P.L. , c. (C.)(before the Legislature as this bill),
19 shall be deemed and held to be an essential governmental function of
20 the State.

21 b. The trust shall consist of a seven-member board of directors
22 composed of the State Treasurer, the Commissioner of the Department
23 of Community Affairs, and the Commissioner of the Department of
24 Environmental Protection, who shall be members ex officio; one
25 person appointed by the Governor upon the recommendation of the
26 President of the Senate and one person appointed by the Governor
27 upon the recommendation of the Speaker of the General Assembly,
28 who shall serve during the two-year legislative term in which they are
29 appointed; and two residents of the State appointed by the Governor
30 with the advice and consent of the Senate, who shall serve for terms
31 of four years, except that the first two appointed shall serve terms of
32 two and three years respectively. Each appointed director shall serve
33 until his successor has been appointed and qualified. A director is
34 eligible for reappointment. Any vacancy shall be filled in the same
35 manner as the original appointment, but for the unexpired term only.

36 With respect to those public members first appointed by the
37 Governor, the appointment of each of the two members upon the
38 advice and consent of the Senate shall become effective 30 days after
39 their nomination by the Governor if the Senate has not given advice
40 and consent on those nominations within that time period; the
41 President of the Senate and the Speaker of the General Assembly each
42 shall recommend to the Governor a public member for appointment
43 within 20 days following the effective date of this act, and a
44 recommendation made in this manner shall become effective if the
45 Governor makes the appointment in accordance with the
46 recommendation, in writing, within 10 days of the Governor's receipt

1 thereof. In each instance where the Governor fails to make the
2 appointment, the President of the Senate and the Speaker of the
3 General Assembly shall make new recommendations subject to
4 appointment by the Governor as determined in this section.

5 c. Each appointed director may be removed from office by the
6 Governor for cause, upon the Governor's consideration of the findings
7 and recommendations of an administrative law judge after a public
8 hearing before the judge, and may be suspended by the Governor
9 pending the completion of the hearing. Each director, before entering
10 upon his duties, shall take and subscribe an oath to perform the duties
11 of his office faithfully, impartially and justly to the best of his ability.
12 A record of oaths shall be filed in the office of the Secretary of State.

13 d. The Governor shall designate one of the appointed members to
14 be the chairman and chief executive officer of the trust and the
15 directors shall biannually elect a vice-chairman from among the
16 appointed directors. The chairman shall serve as such for a term of
17 two years and until a successor has been designated. A chairman shall
18 be eligible to succeed himself for one additional two year term. The
19 directors shall elect a secretary and treasurer, who need not be
20 directors, and the same person may be elected to serve as both
21 secretary and treasurer.

22 The powers of the trust are vested in the directors in office from
23 time to time and four directors shall constitute a quorum at any
24 meeting. Action may be taken and motions and resolutions adopted by
25 the trust by the affirmative majority vote of those directors present,
26 but in no event shall any action be taken or motions or resolutions
27 adopted without the affirmative vote of at least four members. No
28 vacancy on the board of directors of the trust shall impair the right of
29 a quorum of the directors to exercise the powers and perform the
30 duties of the trust.

31 e. Each director and the treasurer of the trust shall execute a bond
32 to be conditioned upon the faithful performance of the duties of the
33 director or treasurer in a form and amount as may be prescribed by the
34 State Treasurer. Bonds shall be filed in the office of the Secretary of
35 State. At all times thereafter, the directors and treasurer shall maintain
36 these bonds in full effect. All costs of the bonds shall be borne by the
37 trust.

38 f. The directors of the trust shall serve without compensation, but
39 the trust shall reimburse the directors for actual and necessary
40 expenses incurred in the performance of their duties. Notwithstanding
41 the provisions of any other law to the contrary, no officer or employee
42 of the State shall be deemed to have forfeited or shall forfeit his office
43 or employment or any benefits or emoluments thereof by reason of his
44 acceptance of the office of ex officio director of the trust or his
45 services thereon.

46 g. Each ex officio director may designate an officer of his

1 department to represent him at meetings of the trust. Each designee
2 may lawfully vote and otherwise act on behalf of the director for
3 whom he constitutes the designee. The designation shall be delivered
4 in writing to the trust and shall continue in effect until revoked or
5 amended in writing and delivered to the trust.

6 h. The trust may be dissolved by law; provided the trust has no
7 debts or obligations outstanding or that provision has been made for
8 the payment or retirement of these debts or obligations. The trust shall
9 continue in existence until dissolved by act of the Legislature. Upon
10 any dissolution of the trust all property, funds and assets of the trust
11 shall be vested in the State.

12 i. A true copy of the minutes of every meeting of the trust shall be
13 forthwith delivered by and under the certification of the secretary
14 thereof to the Governor and at the same time to the Senate and
15 General Assembly. The time and act of this delivery shall be duly
16 recorded on a delivery receipt. No action taken or motion or
17 resolution adopted at a meeting by the trust shall have effect until 10
18 days, exclusive of Saturdays, Sundays and public holidays, after a copy
19 of the minutes has been delivered to the Governor, unless during the
20 10-day period the Governor shall approve all or part of the actions
21 taken or motions or resolutions adopted, in which case the action or
22 motion or resolution shall become effective upon the approval.

23 If, in the 10-day period, the Governor returns the copy of the
24 minutes with a veto of any action taken by the trust or any member
25 thereof at that meeting, the action shall be of no effect. The Senate or
26 General Assembly shall have the right to provide written comments
27 concerning the minutes to the Governor within the 10-day period,
28 which comments shall be returned to the trust by the Governor with
29 his approval or veto of the minutes.

30 The powers conferred in this subsection upon the Governor shall be
31 exercised with due regard for the rights of the holders of bonds, notes
32 and other obligations of the trust at any time outstanding, and nothing
33 in, or done pursuant to, this subsection shall in any way limit, restrict
34 or alter the obligation or powers of the trust or any representative or
35 officer of the trust to carry out and perform each covenant, agreement
36 or contract made or entered into by or on behalf of the trust with
37 respect to its bonds, notes or other obligations or for the benefit,
38 protection or security of the holders thereof.

39 j. No resolution or other action of the trust providing for the
40 issuance of bonds, refunding bonds, notes or other obligations shall be
41 adopted or otherwise made effective by the trust without the prior
42 approval in writing of the Governor and the State Treasurer. The trust
43 shall provide the Senate and General Assembly with written notice of
44 any request for approval of the Governor and State Treasurer at the
45 time the request is made, and shall also provide the Senate and General
46 Assembly written notice of the response of the Governor and State

1 Treasurer at the time that the response is received by the trust.
2 (cf: P.L.1987, c.459, s.1)
3
4 6. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read
5 as follows:
6 5. Except as otherwise limited by [this act] the provisions of
7 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before
8 the Legislature as this bill), the trust may:
9 a. Make and alter bylaws for its organization and internal
10 management and, subject to agreements with holders of its bonds,
11 notes or other obligations, make rules and regulations with respect to
12 its operations, properties and facilities;
13 b. Adopt an official seal and alter it;
14 c. Sue and be sued;
15 d. Make and enter into all contracts, leases and agreements
16 necessary or incidental to the performance of its duties and the
17 exercise of its powers under [this act] the provisions of P.L.1985,
18 c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the
19 Legislature as this bill), and subject to any agreement with the holders
20 of the trust's bonds, notes or other obligations, consent to any
21 modification, amendment or revision of any contract, lease or
22 agreement to which the trust is a party;
23 e. Enter into agreements or other transactions with and accept,
24 subject to the provisions of section 23 of [this act] P.L.1985, c.334
25 (C.58:11B-23), grants, appropriations and the cooperation of the
26 State, or any State agency, in furtherance of the purposes of [this act]
27 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before
28 the Legislature as this bill), and do anything necessary in order to avail
29 itself of that aid and cooperation;
30 f. Receive and accept aid or contributions from any source of
31 money, property, labor or other things of value, to be held, used and
32 applied to carry out the purposes of [this act] P.L.1985, c.334
33 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the Legislature as
34 this bill), subject to the conditions upon which that aid and those
35 contributions may be made, including, but not limited to, gifts or
36 grants from any department or agency of the State, or any State
37 agency, for any purpose consistent with [this act] the provisions of
38 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before
39 the Legislature as this bill), subject to the provisions of section 23 of
40 [this act] P.L.1985, c.334 (C.58:11B-23);
41 g. Acquire, own, hold, construct, improve, rehabilitate, renovate,
42 operate, maintain, sell, assign, exchange, lease, mortgage or otherwise
43 dispose of real and personal property, or any interest therein, in the
44 exercise of its powers and the performance of its duties under [this
45 act] the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. ,
46 c. (C.) (before the Legislature as this bill);

- 1 h. Appoint and employ an executive director and any other officers
2 or employees as it may require for the performance of its duties,
3 without regard to the provisions of Title [11 of the Revised] 11A of
4 the New Jersey Statutes;
- 5 i. Borrow money and issue bonds, notes and other obligations, and
6 secure the same, and provide for the rights of the holders thereof as
7 provided in [this act] the provisions of P.L.1985, c.334 (C.58:11B-1
8 et seq.) or P.L. , c. (C.)(before the Legislature as this bill);
- 9 j. Subject to any agreement with holders of its bonds, notes or
10 other obligations, invest moneys of the trust not required for
11 immediate use, including proceeds from the sale of any bonds, notes
12 or other obligations, in any obligations, securities and other
13 investments in accordance with the rules and regulations of the State
14 Investment Council or as may otherwise be approved by the Director
15 of the Division of Investment in the Department of the Treasury upon
16 a finding that such investments are consistent with the corporate
17 purposes of the trust;
- 18 k. Procure insurance to secure the payment of its bonds, notes or
19 other obligations or the payment of any guarantees or loans made by
20 it in accordance with [this act] the provisions of P.L.1985, c.334
21 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature
22 as this bill), or against any loss in connection with its property and
23 other assets and operations, in any amounts and from any insurers as
24 it deems desirable;
- 25 l. Engage the services of attorneys, accountants, engineers, and
26 financial experts and any other advisors, consultants, experts and
27 agents as may be necessary in its judgment and fix their compensation;
- 28 m. (1) Make and contract to make loans to local government units
29 to finance the cost of wastewater treatment system projects, solid
30 waste management projects or water supply projects and acquire and
31 contract to acquire notes, bonds or other obligations issued or to be
32 issued by local government units to evidence the loans, all in
33 accordance with the provisions of [this act] P.L.1985, c.334
34 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the
35 Legislature as this bill);
- 36 (2) Make and contract to make loans to public water utilities to
37 finance the cost of water supply projects in accordance with the
38 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
39 (C.)(before the Legislature as this bill);
- 40 n. Subject to any agreement with holders of its bonds, notes or
41 other obligations, purchase bonds, notes and other obligations of the
42 trust and hold the same for resale or provide for the cancellation
43 thereof, all in accordance with the provisions of [this act] P.L.1985,
44 c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.)(before the
45 Legislature as this bill);
- 46 o. (1) Charge to and collect from local government units or public

1 water utilities any fees and charges in connection with the trust's loans,
2 guarantees or other services, including, but not limited to, fees and
3 charges sufficient to reimburse the trust for all reasonable costs
4 necessarily incurred by it in connection with its financings and the
5 establishment and maintenance of reserve or other funds, as the trust
6 may determine to be reasonable. The fees and charges shall be in
7 accordance with a uniform schedule published by the trust for the
8 purpose of providing actual cost reimbursement for the services
9 rendered;

10 (2) Any fees and charges collected by the trust pursuant to this
11 subsection may be deposited and maintained in a fund separate from
12 any other funds held by the trust pursuant to section 10 of P.L.1985,
13 c.334 (C.58:11B-10) or sections 23 and 24 of P.L. , c.
14 (C.)(before the Legislature as this bill) and shall be available for
15 any corporate purposes of the trust;

16 p. Subject to any agreement with holders of its bonds, notes or
17 other obligations, obtain as security or to provide liquidity for payment
18 of all or any part of the principal of and interest and premium on the
19 bonds, notes and other obligations of the trust or for the purchase
20 upon tender or otherwise of the bonds, notes or other obligations,
21 lines of credit, letters of credit and other security agreements or
22 instruments in any amounts and upon any terms as the trust may
23 determine, and pay any fees and expenses required in connection
24 therewith;

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

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

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

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

33

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

36 6. a. Except as may be otherwise expressly provided in the
37 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c.
38 (C.)(before the Legislature as this bill), the trust may from time
39 to time issue its bonds, notes or other obligations in any principal
40 amounts as in the judgment of the trust shall be necessary to provide
41 sufficient funds for any of its corporate purposes, including the
42 payment, funding or refunding of the principal of, or interest or
43 redemption premiums on, any bonds, notes or other obligations issued
44 by it, whether the bonds, notes or other obligations or the interest or
45 redemption premiums thereon to be funded or refunded have or have
46 not become due, the establishment or increase of reserves or other

1 funds to secure or to pay the bonds, notes or other obligations or
2 interest thereon and all other costs or expenses of the trust incident to
3 and necessary to carry out its corporate purposes and powers.

4 b. Whether or not the bonds, notes or other obligations of the trust
5 are of a form and character as to be negotiable instruments under the
6 terms of Title 12A of the New Jersey Statutes, the bonds, notes and
7 other obligations are made negotiable instruments within the meaning
8 of and for the purposes of Title 12A, subject only to the provisions of
9 the bonds, notes and other obligations for registration.

10 c. Bonds, notes or other obligations of the trust shall be authorized
11 by a resolution or resolutions of the trust and may be issued in one or
12 more series and shall bear any date or dates, mature at any time or
13 times, bear interest at any rate or rates of interest per annum, be in any
14 denomination or denominations, be in any form, either coupon,
15 registered or book entry, carry any conversion or registration
16 privileges, have any rank or priority, be executed in any manner, be
17 payable in any coin or currency of the United States which at the time
18 of payment is legal tender for the payment of public and private debts,
19 at any place or places within or without the State, and be subject to
20 any terms of redemption by the trust or the holders thereof, with or
21 without premium, as the resolution or resolutions may provide. A
22 resolution of the trust authorizing the issuance of bonds, notes or
23 other obligations may provide that the bonds, notes or other
24 obligations be secured by a trust indenture between the trust and a
25 trustee, vesting in the trustee any property, rights, powers and duties
26 in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1
27 et seq.) or P.L. , c. (C.)(before the Legislature as this bill) as
28 the trust may determine.

29 d. Bonds, notes or other obligations of the trust may be sold at any
30 price or prices and in any manner as the trust may determine. Each
31 bond, note or other obligation shall mature and be paid not later than
32 20 years from the effective date thereof, or the certified useful life of
33 the project or projects to be financed by the bonds, whichever is less.

34 All bonds of the trust shall be sold at such price or prices and in
35 such manner as the trust shall determine, after notice of sale, a
36 summary of which shall be published at least [three times] once in at
37 least three newspapers published in the State of New Jersey, and at
38 least once in a publication carrying municipal bond notices and
39 devoted primarily to financial news, published in New Jersey or the
40 city of New York, the first notice to be at least five days prior to the
41 day of bidding. The notice of sale may contain a provision to the effect
42 that any or all bids made in pursuance thereof may be rejected. In the
43 event of such rejection or of failure to receive any acceptable bid, the
44 trust, at any time within 60 days from the date of such advertised sale,
45 may sell such bonds at private sale upon terms not less favorable to the
46 State than the terms offered by any rejected bid. The trust may sell all

1 or part of the bonds of any series as issued to any State fund or to the
2 federal government or any agency thereof, at private sale, without
3 advertisement.

4 e. Bonds, notes or other obligations of the trust may be issued
5 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
6 P.L. _____, c. _____ (C. _____)(before the Legislature as this bill) without
7 obtaining the consent of any department, division, board, bureau or
8 agency of the State, and without any other proceedings or the
9 happening of any other conditions or things, other than those consents,
10 proceedings, conditions or things which are specifically required by
11 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. _____, c. _____ (C. _____)(before
12 the Legislature as this bill).

13 f. Bonds, notes or other obligations of the trust issued under the
14 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. _____, c. _____
15 (C. _____)(before the Legislature as this bill) shall not be a debt or
16 liability of the State or of any political subdivision thereof other than
17 the trust and shall not create or constitute any indebtedness, liability
18 or obligation of the State or any political subdivision, but all these
19 bonds, notes and other obligations, unless funded or refunded by
20 bonds, notes or other obligations, shall be payable solely from
21 revenues or funds pledged or available for their payment as authorized
22 in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. _____, c. _____
23 (C. _____)(before the Legislature as this bill). Each bond, note and
24 obligation shall contain on its face a statement to the effect that the
25 trust is obligated to pay the principal thereof or the interest thereon
26 only from its revenues, receipts or funds pledged or available for their
27 payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or
28 P.L. _____, c. _____ (C. _____)(before the Legislature as this bill), and that
29 neither the State, nor any political subdivision thereof, is obligated to
30 pay the principal or interest and that neither the faith and credit nor the
31 taxing power of the State, or any political subdivision thereof, is
32 pledged to the payment of the principal of or the interest on the bonds,
33 notes or other obligations.

34 g. The [aggregate principal amount of bonds, notes or other
35 obligations, including subordinated indebtedness of the trust, shall not
36 exceed \$600,000,000.00, except that, for the purpose of implementing
37 the Fiscal Year 1995 Financial Plan as approved by the Legislature
38 pursuant to SCR No. 74 of 1994 and ACR No. 78 of 1994, and in
39 compliance with subsection j. of this section, the trust may exceed the
40 foregoing limitations. In computing the foregoing limitations there
41 shall be excluded all the] trust may issue bonds, notes or other
42 obligations, including subordinated indebtedness of the trust, which
43 shall be issued for refunding purposes, whenever the refunding shall be
44 determined to result in a debt service savings, as hereinafter provided:

45 (1) Upon the decision by the trust to issue refunding bonds, and
46 prior to the sale of those bonds, the trust shall transmit to the Joint

1 Appropriations Committee's Subcommittee on Transfers, or its
2 successor, a report that a decision has been made, reciting the basis on
3 which the decision was made, including an estimate of the debt service
4 savings to be achieved and the calculations upon which the trust relied
5 when making the decision to issue refunding bonds. The report shall
6 also disclose the intent of the trust to issue and sell the refunding
7 bonds at public or private sale and the reasons therefor.

8 (2) The Joint Appropriations Committee's Subcommittee on
9 Transfers shall have the authority to approve or disapprove the sales
10 of refunding bonds as included in each report submitted in accordance
11 with paragraph (1) of this subsection. The subcommittee shall notify
12 the trust in writing of the approval or disapproval as expeditiously as
13 possible.

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

18 (4) Within 30 days after the sale of the refunding bonds, the trust
19 shall notify the Subcommittee on Transfers of the result of that sale,
20 including the prices and terms, conditions and regulations concerning
21 the refunding bonds, the actual amount of debt service savings to be
22 realized as a result of the sale of refunding bonds, and the intended use
23 of the proceeds from the sale of those bonds.

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

28 h. Each issue of bonds, notes or other obligations of the trust may,
29 if it is determined by the trust, be general obligations thereof payable
30 out of any revenues, receipts or funds of the trust, or special
31 obligations thereof payable out of particular revenues, receipts or
32 funds, subject only to any agreements with the holders of bonds, notes
33 or other obligations, and may be secured by one or more of the
34 following:

35 (1) Pledge of revenues and other receipts to be derived from the
36 payment of the interest on and principal of notes, bonds or other
37 obligations issued to the trust by one or more local government units,
38 and any other payment made to the trust pursuant to agreements with
39 any local government units, or a pledge or assignment of any notes,
40 bonds or other obligations of any local government unit and the rights
41 and interest of the trust therein;

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

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

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

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

11 i. The trust shall not issue any bonds, notes or other obligations, or
12 otherwise incur any additional indebtedness, on or after November 5,
13 2005.

14 j. [For the purpose of implementing the Fiscal Year 1995 Financial
15 Plan as approved by the Legislature pursuant to SCR No. 74 of 1994
16 and ACR No. 78 of 1994, the trust shall provide the Senate Budget
17 and Appropriations and the Assembly Appropriations Committee, or
18 their successors, with a detailed statement by the trust of the costs of
19 issuance of any bonds issued to implement the Fiscal Year 1995
20 Financial Plan, within thirty days of the issuance thereof, with specific
21 reference, where applicable, to itemized costs for the following
22 services:

23 (1) bond counsel, tax counsel and special counsel;

24 (2) financial advisor;

25 (3) paying agent and registrar;

26 (4) rating agencies;

27 (5) official statement printing;

28 (6) bond printing;

29 (7) trustee;

30 (8) credit enhancement;

31 (9) liquidity facility; and

32 (10) miscellaneous issuance costs; and

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

36 (1) management fees;

37 (2) underwriters' fees;

38 (3) selling concessions;

39 (4) underwriters' counsel; and

40 (5) other costs. ~~](Deleted by amendment, P.L. , c.)(before the~~
41 Legislature as this bill)

42 (cf: P.L.1994, c.107, s.1)

43

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

46 7. In any resolution of the trust authorizing or relating to the

1 issuance of any of its bonds, notes or other obligations, the trust, in
2 order to secure the payment of the bonds, notes or other obligations
3 and in addition to its other powers, may by provisions therein which
4 shall constitute covenants by the trust and contracts with the holders
5 of the bonds, notes or other obligations:

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

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

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

13 d. Covenant as to any bonds, notes or other obligations to be
14 issued by the trust, and the limitations thereon, and the terms and
15 conditions thereof, and as to the custody, application, investment and
16 disposition of the proceeds thereof;

17 e. Covenant as to the issuance of additional bonds, notes or other
18 obligations of the trust or as to limitations on the issuance of
19 additional bonds, notes or other obligations and on the incurring of
20 other debts by it;

21 f. Covenant as to the payment of the principal of or interest on
22 bonds, notes or other obligations of the trust, as to the sources and
23 methods of payment, as to the rank or priority of the bonds, notes or
24 other obligations with respect to any lien or security or as to the
25 acceleration of the maturity of the bonds, notes or other obligations;

26 g. Provide for the replacement of lost, stolen, destroyed or
27 mutilated bonds, notes or other obligations of the trust;

28 h. Covenant against extending the time for the payment of bonds,
29 notes or other obligations of the trust or interest thereon;

30 i. Covenant as to the redemption of bonds, notes and other
31 obligations by the trust or the holders thereof and privileges of
32 exchange thereof for other bonds, notes or other obligations of the
33 trust;

34 j. Covenant to create or authorize the creation of special funds or
35 accounts to be held in trust or otherwise for the benefit of holders of
36 bonds, notes and other obligations of the trust, or reserves for other
37 purposes and as to the use, investment, and disposition of moneys held
38 in those funds, accounts or reserves;

39 k. Provide for the rights and liabilities, powers and duties arising
40 upon the breach of any covenant, condition or obligation and prescribe
41 the events of default and terms and conditions upon which any or all
42 of the bonds, notes or other obligations of the trust shall become or
43 may be declared due and payable before maturity and the terms and
44 conditions upon which the declaration and its consequences may be
45 waived;

46 l. Vest in a trustee or trustees within or without the State any

1 property, rights, powers and duties in trust as the trust may determine,
2 which may include any or all of the rights, powers and duties of any
3 trustee appointed by the holders of any bonds, notes or other
4 obligations of the trust pursuant to section 18 of [this act] P.L.1985,
5 c.334 (C.58:11B-18), including rights with respect to the sale or other
6 disposition of notes, bonds or other obligations of local government
7 units pledged pursuant to a resolution or trust indenture for the benefit
8 of the holders of bonds, notes or other obligations of the trust and the
9 right by suit or action to foreclose any mortgage pledged pursuant to
10 the resolution or trust indenture for the benefit of the holders of the
11 bonds, notes or other obligations, and to limit or abrogate the right of
12 the holders of any bonds, notes or other obligations of the trust to
13 appoint a trustee under [this act] the provisions of P.L.1985, c.334
14 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature
15 as this bill), and to limit the rights, duties and powers of the trustee;
16 m. Pay the costs or expenses incident to the enforcement of the
17 bonds, notes or other obligations of the trust or of the provisions of
18 the resolution authorizing the issuance of those bonds, notes or other
19 obligations or of any covenant or agreement of the trust with the
20 holders of the bonds, notes or other obligations;
21 n. Limit the rights of the holders of any bonds, notes or other
22 obligations of the trust to enforce any pledge or covenant securing the
23 bonds, notes or other obligations; and
24 o. Make covenants other than or in addition to the covenants
25 authorized by [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or
26 P.L. , c. (C.)(pending in the Legislature as this bill) of like
27 or different character, and make covenants to do or refrain from doing
28 any acts and things as may be necessary, or convenient and desirable,
29 in order to better secure the bonds, notes or other obligations of the
30 trust, or which, in the absolute discretion of the trust, would make the
31 bonds, notes or other obligations more marketable, notwithstanding
32 that the covenants, acts or things may not be enumerated herein.
33 (cf: P.L.1985, c.334, s.7)

34
35 9. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read
36 as follows:

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

45 (2) The trust may make and contract to make loans to public water
46 utilities in accordance with and subject to the provisions of P.L.1985,

1 c.334 (C.58:11B-1 et seq.) or P.L. _____, c. _____ (pending in the
2 Legislature as this bill) to finance the cost of any water supply project,
3 which the public water utility may lawfully undertake or acquire.

4 The loans may be made subject to those terms and conditions as the
5 trust shall determine to be consistent with the purposes thereof. Each
6 loan by the trust and the terms and conditions thereof shall be subject
7 to approval by the State Treasurer, and the trust shall make available
8 to the State Treasurer all information, statistical data and reports of
9 independent consultants or experts as the State Treasurer shall deem
10 necessary in order to evaluate the loan. Each loan to a local
11 government unit or public water utility shall be evidenced by notes,
12 bonds or other obligations thereof issued to the trust. In the case of
13 each local government unit, notes and bonds to be issued to the trust
14 by the local government unit (1) shall be authorized and issued as
15 provided by law for the issuance of notes and bonds by the local
16 government unit, (2) shall be approved by the Local Finance Board in
17 the Division of Local Government Services in the Department of
18 Community Affairs, and (3) notwithstanding the provisions of
19 N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other
20 provisions of law to the contrary, may be sold at private sale to the
21 trust at any price, whether or not less than par value, and shall be
22 subject to redemption prior to maturity at any times and at any prices
23 as the trust and local government units may agree. Each loan to a local
24 government unit or public water utility and the notes, bonds or other
25 obligations thereby issued shall bear interest at a rate or rates per
26 annum as the trust and the local government unit or public water
27 utility, as the case may be, may agree.

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

43 c. The trust shall not make or contract to make any loans or
44 guarantees to local government units or public water utilities, or
45 otherwise incur any additional indebtedness, on or after [20 years from
46 the effective date of this act] November 5, 2005.

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

2

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

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

7 Subject to the provisions of the legislation appropriating moneys to
8 the trust, subject to any other provision of [this act] P.L.1985, c.334
9 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature as
10 this bill) providing otherwise, and subject to agreements with the
11 holders of bonds, notes and other obligations of the trust, the trust
12 shall deposit into the wastewater treatment system general loan fund
13 all revenues and receipts of the trust, including moneys received by the
14 trust as payment of the principal of and the interest or premium on
15 loans made from moneys in any wastewater treatment system fund or
16 account held by the trust under [this act] P.L.1985, c.334 (C.58:11B-1
17 et seq.) or P.L. , c. (C.) (before the Legislature as this bill),
18 and the earnings on the moneys in any wastewater treatment system
19 fund or account of the trust, and all grants, appropriations, other than
20 those referred to in section 11 of [this act] P.L.1985, c.334
21 (C.58:11B-11), contributions, or other moneys from any source,
22 available for the making of loans to local government units. The
23 amounts in the wastewater treatment system general loan fund shall be
24 available for application by the trust for loans to local government
25 units for the cost of wastewater treatment system projects, and for
26 other corporate purposes of the trust related to wastewater treatment
27 systems, subject to agreements with the holders of bonds, notes or
28 other obligations of the trust.

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

30

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

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

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

40

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

43 14. The State does pledge to and covenant and agree with the
44 holders of any bonds, notes or other obligations of the trust issued
45 pursuant to authorization of [this act] P.L.1985, c.334 (C.58:11B-1
46 et seq.) or P.L. , c. (C.) (before the Legislature as this bill)

1 that the State shall not limit or alter the rights or powers vested in the
2 trust to perform and fulfill the terms of any agreement made with the
3 holders of the bonds, notes or other obligations or to fix, establish,
4 charge and collect any rents, fees, rates, payments or other charges as
5 may be convenient or necessary to produce sufficient revenues to meet
6 all expenses of the trust and to fulfill the terms of any agreement made
7 with the holders of bonds, notes or other obligations, including the
8 obligations to pay the principal of and interest and premium on those
9 bonds, notes or other obligations, with interest on any unpaid
10 installments of interest, and all costs and expenses in connection with
11 any action or proceedings by or on behalf of the holders, and shall not
12 limit or alter the rights and powers of any local government unit to pay
13 and perform its obligations owed to the trust in connection with loans
14 received from the trust, until the bonds, notes and other obligations of
15 the trust, together with interest thereon, are fully met and discharged
16 or provided for.

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

18

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

21 15. The State and all public officers, governmental units and
22 agencies thereof, all banks, trust companies, savings banks and
23 institutions, building and loan associations, savings and loan
24 associations, investment companies, and other persons carrying on a
25 banking business, all insurance companies, insurance associations and
26 other persons carrying on an insurance business, and all executors,
27 administrators, guardians, trustees and other fiduciaries may legally
28 invest any sinking funds, moneys or other funds belonging to them or
29 within their control in any bonds, notes or other obligations issued
30 pursuant to [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. __, c. (C. __)(before the Legislature as this bill), and those bonds, notes
31 or other obligations shall be authorized security for any and all public
32 deposits.
33

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

35

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

38 17. All property of the trust is declared to be public property
39 devoted to an essential public and governmental function and purpose
40 and the revenues, income and other moneys received or to be received
41 by the trust shall be exempt from all taxes of the State or any political
42 subdivision thereof. All bonds, notes and other obligations of the trust
43 issued pursuant to [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or
44 P.L. __, c. (C. __)(before the Legislature as this bill) are declared
45 to be issued by a body corporate and politic of the State and for an
46 essential public and governmental purpose and those bonds, notes and

1 other obligations, and interest thereon and the income therefrom and
2 from the sale, exchange or other transfer thereof shall at all times be
3 exempt from taxation, except for transfer inheritance and estate taxes.
4 (cf: P.L.1985, c.334, s.17)

5
6 15. Section 18 of P.L.1985, c.334 (C.58:11B-18) is amended to
7 read as follows:

8 18. a. If the trust defaults in the payment of principal of, or
9 interest on, any issue of its bonds, notes or other obligations after
10 these are due, whether at maturity or upon call for redemption, and the
11 default continues for a period of 30 days or if the trust defaults in any
12 agreement made with the holders of any issue of bonds, notes or other
13 obligations, the holders of 25% in aggregate principal amount of the
14 bonds, notes or other obligations of the issue then outstanding, by
15 instrument or instruments filed in the office of the clerk of any county
16 in which the trust operates and has an office and proved or
17 acknowledged in the same manner as required for a deed to be
18 recorded, may direct a trustee to represent the holders of the bonds,
19 notes or other obligations of the issuers for the purposes herein
20 provided.

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

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

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

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

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

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

43 (6) By action or suit, 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 of the issue;

46 (7) Declare all bonds, notes or other obligations of the issue due

1 and payable, and if all defaults are made good, then with the consent
2 of the holders of 50% of the principal amount of the bonds, notes or
3 other obligations of the issue then outstanding, to annul the
4 declaration and its consequences.

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

10 d. The Superior Court shall have jurisdiction over any suit, action
11 or proceeding by the trustees on behalf of the holders of bonds, notes
12 or other obligations of the trust. The venue of any suit, action or
13 proceeding shall be in the county in which the principal office of the
14 trust is located.

15 e. Before declaring the principal of bonds, notes or other
16 obligations of the trust due and payable as a result of a trust default on
17 any of its bonds, notes or other obligations, the trustee shall first give
18 30 days' notice in writing to the trust and to the Governor, State
19 Treasurer, President of the Senate and Speaker of the General
20 Assembly.

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

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

25 19. Sums of money received pursuant to the authority of [this act]
26 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before
27 the Legislature as this bill), whether as proceeds from the sale of
28 particular bonds, notes or other obligations of the trust or as particular
29 revenues or receipts of the trust, are deemed to be trust funds, to be
30 held and applied solely as provided in the resolution or trust indenture
31 under which the bonds, notes or obligations are authorized or secured.
32 Any officer with whom or any bank or trust company with which those
33 sums of money are deposited as trustee thereof shall hold and apply
34 the same for the purposes thereof, subject to any provision as [this
35 act] the aforementioned acts and the resolution or trust indenture
36 authorizing or securing the bonds, notes or other obligations of the
37 trust may provide.

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

39
40 17. Section 20 of P.L.1985, c.334 (C.58:11B-20) is amended to
41 read as follows:

42 20. a. The Commissioner of Environmental Protection shall for
43 each fiscal year develop a priority system for wastewater treatment
44 systems and shall establish the ranking criteria and funding policies for
45 the projects therefor. The commissioner shall set forth a project
46 priority list for funding by the trust for each fiscal year and shall

1 include the aggregate amount of funds of the trust to be authorized for
2 these purposes. The project priority list may include any stormwater
3 management or combined sewer overflow abatement project identified
4 in the stormwater management and combined sewer overflow
5 abatement project priority list adopted by the commissioner pursuant
6 to section 28 of P.L.1989, c.181.

7 The project priority list, which shall include for each wastewater
8 treatment system the date each project is scheduled to be certified as
9 ready for funding, shall be in conformance with applicable provisions
10 of the "Federal Water Pollution Control Act Amendments of 1972,"
11 Pub.L. 92-500 (33 U.S.C. § 1251 et al.), and any amendatory or
12 supplementary acts thereto, and State law. The project priority list
13 shall include a description of each project and its purpose, impact,
14 cost, and construction schedule, and an explanation of the manner in
15 which priorities were established. The priority system and project
16 priority list for the ensuing fiscal year shall be submitted to the
17 Legislature on or before January 15 of each year on a day when both
18 Houses are meeting. The President of the Senate and the Speaker of
19 the General Assembly shall cause the date of submission to be entered
20 upon the Senate Journal and the Minutes of the General Assembly,
21 respectively[, and shall cause]. On or before May 15 of each year, the
22 trust shall submit the project priority list to be introduced in each
23 House in the form of legislative appropriations bills, [and shall refer
24 these bills] which shall be referred to the Senate [Energy and]
25 Environment Committee and the General Assembly [Agriculture and
26 Environment] Solid and Hazardous Waste Committee, or their
27 successors, for their respective consideration.

28 b. [Within 60 days of the referral thereof, the] The Senate [Energy
29 and] Environment Committee and the General Assembly [Agriculture
30 and Environment] Solid and Hazardous Waste Committee shall, either
31 individually or jointly, consider the legislation containing the project
32 priority list, and shall report the legislation, together with any
33 modifications, out of committee for consideration by each House of
34 the Legislature. On or before [April] July 1 of each year, the
35 Legislature shall approve an appropriations act containing the project
36 priority list, including any amendatory or supplementary provisions
37 thereto, which act shall include the authorization of an aggregate
38 amount of funds of the trust to be expended for loans and guarantees
39 for the specific projects, including the individual amounts therefor, on
40 the list[, as modified by the Senate Energy and Environment
41 Committee and the General Assembly Agriculture and Environment
42 Committee].

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

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

2

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

5 21. On or before May 15 of each year, the trust shall submit to the
6 Legislature a financial plan designed to implement the financing of the
7 wastewater treatment system projects on the project priority list
8 approved pursuant to section 20 of [this act] P.L.1985, c.334
9 (C.58:11B-20). The financial plan shall contain an enumeration of the
10 bonds, notes or other obligations of the trust which the trust intends
11 to issue, including the amounts thereof and the terms and conditions
12 thereof, a list of loans to be made to local government units, including
13 the terms and conditions thereof and the anticipated rate of interest per
14 annum and repayment schedule therefor, and a list of loan guarantees
15 or contracts to guarantee the payment of all or a portion of the
16 principal and interest on bonds, notes or other obligations issued by a
17 local government unit to finance the cost of a wastewater treatment
18 system project, and the terms and conditions thereof. The financial
19 plan shall also set forth a complete operating and financial statement
20 covering its proposed operations during the forthcoming fiscal year,
21 including amounts of income from all sources, and the uniform
22 schedule of fees and charges established by the trust pursuant to
23 subsection o. of section 5 of [this act] P.L.1985, c.334 (C.58:11B-5),
24 and the amounts to be derived therefrom, and shall summarize the
25 status of each wastewater treatment system project for which loans or
26 guarantees have been made by the trust, and shall describe major
27 impediments to the accomplishment of the planned wastewater
28 treatment system projects.

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

30

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

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

39 b. Unless the financial plan as described in the submission is
40 approved by adoption of a concurrent resolution of both houses within
41 the time period prescribed in this subsection, the financial plan shall be
42 deemed disapproved and the trust shall not undertake any of the
43 proposed activities contained therein. The President and the Speaker
44 shall cause a concurrent resolution of approval of the trust's financial
45 plan to be placed before the members of the respective houses for a
46 recorded vote within the time period. The time period shall commence

1 on the day of submission and expire on the forty-fifth day after
2 submission or for a house not meeting on the forty-fifth day, on the
3 next meeting day of that house.

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

5

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

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

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

28 c. The trust shall not apply for[, receive, accept or utilize] any
29 federal funds, including funds which are authorized pursuant to the
30 "Federal Water Pollution Control Act Amendments of 1972," Pub.L.
31 92-500 (33 U.S.C. § 1251 et al.), and any amendatory or
32 supplementary acts thereto.

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

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

39

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

42 25. The trust shall establish the rules and regulations governing the
43 making and use of loans or guarantees, including, but not limited to,
44 procedures for the submission of loan guarantee requests, standards
45 for the evaluation of requests, provisions implementing priority
46 systems for projects, reporting requirements of the recipient of any

1 loan or guarantee concerning the progress and the expenditure of
2 funds, and limitations, restrictions or requirements concerning the use
3 of loan funds as the trust shall prescribe; provided that the rules and
4 regulations shall be in compliance with the terms and provisions of
5 [this act] P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L. , c. (C.) (before the Legislature as this bill) relating to the making of
6 or eligibility for loans or guarantees for environmental infrastructure
7 projects generally or for any particular type or class of wastewater
8 treatment system, solid waste management or water supply projects.
9 (cf: P.L.1985, c.334, s.25)
10

11

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

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

22

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

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

46

1 24. (New section) The trust shall create and establish a special fund
2 to be known as the "water supply facilities general loan fund."

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

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

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

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

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

45 The project priority list shall include a description of each project
46 and its purpose, impact, cost, and construction schedule, and an

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

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

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

29

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

45 The financial plan shall also set forth a complete operating and
46 financial statement covering its proposed operations during the

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

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

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

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

1 each House in the form of legislative appropriations bills, which shall
2 be referred to the Senate Natural Resources and Economic
3 Development Committee and the General Assembly Solid and
4 Hazardous Waste Committee, or their successors, for their respective
5 consideration.

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

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

22

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

38 The financial plan shall also set forth a complete operating and
39 financial statement covering its proposed operations during the
40 forthcoming fiscal year, including amounts of income from all sources,
41 and the uniform schedule of fees and charges established by the trust
42 pursuant to subsection o. of section 5 of P.L.1985 c.334
43 (C.58:11B-5), and the amounts to be derived therefrom, and shall
44 summarize the status of each water supply project for which loans or
45 guarantees have been made by the trust, and shall describe major
46 impediments to the accomplishment of the planned water supply

1 projects.

2

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

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

21

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

36

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

40 (1) The identification, in consultation with local government units,
41 of all municipal solid waste landfills in the State that ceased operations
42 prior to January 1, 1982 and that are not listed on the National
43 Priorities List pursuant to the "Comprehensive Environmental
44 Response, Compensation, and Liability Act of 1980," at 42 U.S.C.
45 §9605, and conducting a preliminary site assessment to prioritize the
46 municipal solid waste landfills for closure on the basis of the threat

1 posed to the public health, safety or welfare;

2 (2) The establishment, at the request of a municipality or
3 municipalities within which is located a municipal solid waste landfill
4 identified pursuant to paragraph (1) of this subsection, of a community
5 advisory committee comprised of local officials and with
6 representation of residents living within one mile of the municipal solid
7 waste landfill. The department shall work with the committee in
8 planning the closure of the municipal solid waste landfill and the
9 long-term use of the site after closure;

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

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

16 b. Whenever the department determines that the landfill closure
17 escrow account of an owner or operator of a municipal solid waste
18 landfill that ceased operations between January 1, 1982 and the
19 effective date of P.L. , c. (C.)(before the Legislature as this
20 bill) has insufficient funds for the proper closure of the municipal solid
21 waste landfill, the department may enter into an agreement with the
22 owner or operator to close the municipal solid waste landfill under the
23 closure program established pursuant to this section.

24

25 33. (New section) a. The department shall establish a landfill
26 mining program for sanitary landfill facilities.

27 b. Any local government unit that owns or operates a sanitary
28 landfill facility proposing to undertake a landfill mining project shall
29 submit to the department an application package that shall contain a
30 mining plan and any other information as may be prescribed by the
31 department.

32 c. An owner or operator of a sanitary landfill facility that
33 undertakes a landfill mining project shall prepare a written report
34 concerning the project every six months during the implementation of
35 the project and a final report within 6 months of its completion, which
36 shall be submitted to the department, to the Legislature, and to the
37 Chairmen of the Senate Natural Resources and Economic
38 Development Committee and the Assembly Solid and Hazardous
39 Waste Committee or their successor committees. The final report shall
40 include but shall not be limited to an explanation of the procedures
41 used in the project, the number of tons of recyclable materials
42 recovered, the types of materials recovered, the number of tons of
43 materials sold, the buyers of any materials recovered, the materials
44 composted, the number of tons of materials composted, additional
45 disposal capacity created, cost effectiveness, the environmental
46 problems revealed, the measures taken for closure, the materials

1 remaining in the landfill, if any, the equipment purchased, an
2 accounting of the costs of the projects, and any other information the
3 department deems appropriate.

4
5 34. (New section) a. The department shall adopt, pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), any rules and regulations necessary to implement the provisions
8 of sections 32 and 33 of P.L. , c. (C.)(before the Legislature
9 as this bill). The department shall adopt these rules and regulations
10 within 18 months of the effective date of P.L. , c. (C.)(before
11 the Legislature as this bill).

12
13 35. This act shall take effect immediately.

14 15 16 STATEMENT

17
18 This bill permits the New Jersey Wastewater Treatment Trust, a
19 State financing authority empowered to maximize the use of available
20 State funds for financing the costs of wastewater treatment system
21 projects, to provide financial assistance to local governments for most
22 other types of environmental infrastructure projects as well, including
23 stormwater management or combined sewer overflow abatement
24 projects, solid waste management projects, landfill mining projects,
25 municipal solid waste landfill closure projects, and water supply
26 projects. The bill also permits the Trust to make loans to private sector
27 firms (i.e. investor-owned water companies and so-called small water
28 companies) for water supply projects.

29 The New Jersey Wastewater Treatment Trust, established pursuant
30 to P.L.1985, c.334 (C.58:11B-1 et seq.), is empowered to issue bonds,
31 notes and other debt obligations for the purpose of providing loans
32 with an interest rate at or below the prevailing market rate to local
33 government units for approximately 50% of the allowable costs of
34 eligible wastewater treatment system projects. The eligible projects are
35 those included in the annual "State Fiscal Year Project Priority List"
36 submitted to the Legislature by the Trust in January of each year. The
37 bill renames the Trust as the "New Jersey Environmental Infrastructure
38 Trust."

39 Under the New Jersey Wastewater Treatment Financing Program,
40 the Department of Environmental Protection (DEP) has utilized State
41 general obligation bond moneys from the "Wastewater Treatment
42 Bond Act of 1985," (P.L.1985, c.329), federal moneys received under
43 the federal "Water Quality Act of 1987," and from fees and penalties
44 from the federal "Marine Protection, Research and Sanctuaries Act of
45 1972," and bond moneys made available under the "Green Acres,
46 Clean Water, Farmland and Historic Preservation Bond Act of 1992,"

1 P.L.1992, c.88, which allocated \$50 million for the financing of
2 wastewater treatment system projects, to provide zero interest loans
3 to local governments for up to 50% of eligible project costs for
4 wastewater treatment system projects. The Trust issues revenue bonds
5 to provide moneys for low interest loans to local governments for the
6 remaining balance of eligible project costs for these projects.

7 A local government seeking financial assistance for a wastewater
8 treatment system project would apply for a loan from each State
9 agency. In most instances, this combined State financing approach
10 would be considerably less costly to the average local government than
11 bonding for the project on its own. Typically, participants in the New
12 Jersey Wastewater Treatment Financing Program have realized an
13 average savings of 30% on the financing of the total eligible cost of
14 the project over what it would cost a local government to secure its
15 own financing.

16 The bill extends this combined State financing approach to virtually
17 all environmental infrastructure projects, including stormwater
18 management or combined sewer overflow abatement projects, solid
19 waste management projects, including the construction of composting
20 facilities, materials recovery facilities, recycling centers, resource
21 recovery facilities and environmentally sound sanitary landfill facilities,
22 as well as landfill mining projects and municipal solid waste landfill
23 closure projects, and water supply projects.

24 The proposed funding source for these projects would be several
25 existing State general obligation bond acts: the "Water Supply Bond
26 Act of 1981" (P.L.1981, c.261); the "Stormwater Management and
27 Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989,
28 c.181); and the "Resource Recovery and Solid Waste Disposal Facility
29 Bond Act of 1985" (P.L.1985, c.330). These bond acts would be
30 amended by separate bills (S-422, S-469 and S-470, respectively) to
31 authorize the Trust and the DEP to jointly administer the bond moneys
32 in order to maximize the pool of State moneys available for
33 environmental infrastructure projects.

34 The bill requires the DEP to establish a landfill mining program for
35 sanitary landfill facilities. Any local government that owns or operates
36 a sanitary landfill facility may undertake a landfill mining project after
37 filing a mining plan with the department. An owner or operator of a
38 sanitary landfill facility that undertakes a landfill mining project must
39 prepare a final report concerning the project within 6 months of its
40 completion, which would be submitted to the DEP and the Legislature.
41 The final report must include an explanation of the procedures used in
42 the project, the number of tons of recyclable materials recovered, the
43 types of materials recovered, the number of tons of materials sold, the
44 buyers of any materials recovered, the materials composted, the
45 number of tons of materials composted, additional disposal capacity
46 created, cost effectiveness, the environmental problems revealed, the

1 measures taken for closure, the materials remaining in the landfill, if
2 any, the equipment purchased, an accounting of the costs of the
3 projects, and any other information the DEP deems appropriate.

4 The bill requires the DEP to establish a closure program for
5 municipal solid waste landfills. To be eligible for the closure program,
6 a municipal landfill must have received for disposal household solid
7 waste and either commercial solid waste, industrial solid waste or
8 hazardous waste material that was received prior to the effective date
9 of the federal RCRA program regulating hazardous waste disposal.

10 The municipal landfills that ceased operations prior to the effective
11 date of the "Sanitary Landfill Facility Closure and Contingency Fund
12 Act," P.L.1981, c.306 (C.13:1E-100 et seq.) and that are not federal
13 Superfund sites are specifically included in the closure program.
14 Landfills that ceased operations between January 1, 1982 and the
15 effective date of the bill, which are required by law to have a closure
16 escrow account, may be included in the program if the DEP
17 determines that they ceased operations before sufficient funds
18 accumulated in the escrow accounts.

19 The bill also makes a number of technical changes to the provisions
20 of P.L.1985, c.334 in order to facilitate the transition from a single
21 purpose wastewater treatment financing program to a greatly
22 expanded environmental infrastructure project financing program.

23

24

25

26

27 Establishes New Jersey Environmental Infrastructure Trust to finance
28 wastewater treatment system, solid waste management, and water
29 supply projects.