

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 469

STATE OF NEW JERSEY

ADOPTED DECEMBER 16, 1996

Sponsored by Senators KYRILLOS and CIESLA

1 AN ACT amending the "Stormwater Management and Combined
2 Sewer Overflow Abatement Bond Act of 1989" to authorize the
3 Department of Environmental Protection and the New Jersey
4 Environmental Infrastructure Trust to use bond moneys therefrom
5 to make grants, loan guarantees, or low or zero interest loans to
6 local government units for financing the construction of
7 stormwater management and combined sewer overflow abatement
8 projects; providing for the submission of this amendatory act to the
9 people at a general election, and making an appropriation.

10
11 **BE IT ENACTED** by the Senate and General Assembly of the State
12 of New Jersey:

13
14 1. Section 3 of P.L.1989, c.181 is amended to read as follows:

15 3. As used in this act:

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

18 "Combined sewer overflow" means the discharge of untreated or
19 partially treated stormwater runoff and wastewater from a combined
20 sewer system into a body of water;

21 "Combined sewer system" means a [wastewater treatment system
22 that carries both wastewater and stormwater runoff] sewer system
23 designed to carry wastewater at all times, which is also designed to
24 collect and transport stormwater runoff from streets and other sources,
25 thereby serving a combined purpose;

26 ["Combined sewer overflow" means the discharge of untreated or
27 partially treated stormwater runoff and wastewater from a combined
28 sewer into a body of water;]

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

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

Matter underlined thus is new matter.

1 "Commissioner" means the Commissioner of Environmental
2 Protection;

3 "Construction" means, in addition to the usual meaning thereof,
4 acts of construction, reconstruction, improvement, rehabilitation,
5 relocation, demolition, renewal, repair, replacement, extension,
6 improvement, and betterment;

7 "Cost" means the expenses incurred in connection with: the
8 acquisition by purchase, lease, or otherwise, and the construction of
9 a project authorized by this act; the acquisition by purchase, lease, or
10 otherwise, and the development of any real or personal property for
11 use in connection with a project authorized by this act, including any
12 rights or interests therein; the execution of any agreements and
13 franchises deemed by the department to be necessary or useful and
14 convenient in connection with any project authorized by this act; the
15 procurement of engineering, inspection, planning, legal, financial, or
16 other professional services, including the services of a bond registrar
17 or an authenticating agent; the issuance of bonds, or any interest or
18 discount thereon; the administrative, organizational, operating, or
19 other expenses incident to the financing, completing, and placing into
20 service of any project authorized by this act; the establishment of a
21 reserve fund or funds for working capital, operating, maintenance, or
22 replacement expenses and for the payment or security of principal or
23 interest on bonds, as the Director of the Division of Budget and
24 Accounting in the Department of the Treasury may determine; and
25 reimbursement to any fund of the State of moneys which may have
26 been transferred or advanced therefrom to any fund created by this act,
27 or of any moneys which may have been expended therefrom for, or in
28 connection with, any project authorized by this act;

29 "Department" means the Department of Environmental Protection;

30 "Government securities" means any bonds or other obligations
31 which as to principal and interest constitute direct obligations of, or
32 are unconditionally guaranteed by, the United States of America,
33 including obligations of any federal agency, to the extent those
34 obligations are unconditionally guaranteed by the United States of
35 America, and any certificates or any other evidences of an ownership
36 interest in those obligations of, or unconditionally guaranteed by, the
37 United States of America or in specified portions which may consist
38 of the principal of, or the interest on, those obligations;

39 "Local government unit" means a county, municipality, municipal
40 or county sewerage authority or utilities authority, municipal sewerage
41 district, joint meeting or any other political subdivision of the State
42 authorized pursuant to law to construct, operate or maintain a
43 stormwater management system or a combined sewer system;

44 "Project" means any work relating to any of the stormwater
45 management or combined sewer overflow abatement projects

1 identified in the stormwater management and combined sewer
2 overflow abatement project priority list adopted by the commissioner
3 pursuant to section 28 of [this act] P.L.1989, c.181;

4 "Stormwater management system" means any equipment, plants,
5 structures, machinery, apparatus, management practices, or land, or
6 any combination thereof, acquired, used, constructed, implemented or
7 operated by a local government unit to prevent nonpoint source
8 pollution, abate improper cross-connections and interconnections
9 between stormwater and sewer systems, minimize stormwater runoff,
10 reduce soil erosion, or induce groundwater recharge, or any
11 combination thereof;

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

15 "Wastewater" means residential, commercial, industrial, or
16 agricultural liquid waste, sewage, or any combination thereof, or other
17 liquid residue discharged or collected into a sewer system or
18 stormwater [runoff] management system, or any combination thereof;
19 and

20 "Wastewater treatment system" means any equipment, plants,
21 structures, machinery, apparatus, or land, or any combination thereof,
22 acquired, used, constructed or operated by a local government unit for
23 any or all of the following: the storage, collection, reduction,
24 recycling, reclamation, disposal, separation, or other treatment of
25 wastewater or sewage sludge; the collection or treatment, or both, of
26 stormwater runoff and wastewater; or the final disposal of residues
27 resulting from the treatment of wastewater, including, but not limited
28 to, pumping and ventilating stations, treatment plants and works,
29 connections, outfall sewers, interceptors, trunk lines, stormwater
30 [runoff collection] management systems, and other personal property
31 and appurtenances necessary for their use or operation.

32 (cf: P.L.1989, c.181, s.3)

33

34 2. Section 5 of P.L.1989, c.181 is amended to read as follows:

35 5. a. Bonds of the State of New Jersey are authorized to be issued
36 in the aggregate principal amount of \$50,000,000 for the [purpose]
37 purposes of providing grants [and] or loans to local government units
38 for the costs of stormwater management and combined sewer overflow
39 abatement projects, all as identified pursuant to the stormwater
40 management and combined sewer overflow abatement project priority
41 list adopted by the commissioner pursuant to section 28 of this act.
42 [The rate of interest on loans to local government units for projects
43 shall be 2% per annum.]

44 b. Of the total principal amount authorized pursuant to subsection
45 a. of this section:

1 (1) Not less than \$45,000,000 is allocated to the department for
2 the purposes of providing grants or low or zero interest loans to local
3 government units for the costs of stormwater management and
4 combined sewer overflow abatement projects, all as designated and
5 authorized pursuant to section 28 of P.L.1989, c.181; and

6 (2) No more than \$5,000,000 is allocated for payment to, and use
7 by, the trust in establishing reserves and providing loan guarantees in
8 accordance with paragraph (2) of subsection a. of section 15 of
9 P.L.1989, c.181.

10 If the "New Jersey Environmental Infrastructure Trust Act" (before
11 the Legislature as Assembly Bill No. 1511 of 1996) has not been
12 enacted into law by the date of the approval of this act by the voters,
13 the bonds allocated pursuant to paragraph (2) of this subsection shall
14 be allocated with the bonds allocated pursuant to paragraph (1) of this
15 subsection, and subsection b. of section 14 of P.L.1989, c.181 and
16 paragraph (2) of subsection a. of section 15 of P.L.1989, c.181 shall
17 be inoperative.

18 (cf: P.L.1989, c.181, s.5)

19

20 3. Section 10 of P.L.1989, c.181 is amended to read as follows:

21 10. a. The bonds shall recite that they are issued for the purposes
22 set forth in section 5 of [this act] P.L.1989, c.181, that they are issued
23 pursuant to this act, that this act was submitted to the people of the
24 State at the general election held in the month of November, 1989, and
25 that this act was approved by a majority of the legally qualified voters
26 of the State voting thereon at the election. [This recital] The bonds
27 shall also recite, if issued after the effective date of P.L. , c.
28 (before the Legislature as this bill), that the amendments to P.L.1989,
29 c.181 were submitted to the people of the State at the general election
30 held in the month of November, 1997, and were approved by a
31 majority of the legally qualified voters of the State voting thereon.
32 These recitals shall be conclusive evidence of the authority of the State
33 to issue the bonds and their validity. Any bonds containing [this
34 recital] the recitals shall, in any suit, action or proceeding involving
35 their validity, be conclusively deemed to be fully authorized by this act
36 and to have been issued, sold, executed and delivered in conformity
37 herewith and with all other provisions of laws applicable hereto, and
38 shall be incontestable for any cause.

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

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

1 4. Section 14 of P.L.1989, c.181 is amended to read as follows:

2 14. a. The proceeds from the sale of the bonds [and any
3 repayment of the principal and interest on loans made to local
4 government units pursuant to this act] allocated pursuant to paragraph
5 (1) of subsection b. of section 5 of P.L.1989, c.181 shall be paid to the
6 State Treasurer [to be held by the State Treasurer] for deposit in a
7 separate nonlapsing revolving fund, which shall be known as the
8 "Stormwater Management and Combined Sewer Overflow Abatement
9 Fund[.]" [The proceeds of this fund shall be deposited in those
10 depositories as may be selected by the State Treasurer to the credit of
11 the fund] for use by the department as hereinafter provided.

12 b. The proceeds from the sale of bonds allocated pursuant to
13 paragraph (2) of subsection b. of section 5 of P.L.1989, c.181 shall be
14 paid to the State Treasurer for deposit in a separate nonlapsing
15 revolving fund, which shall be known as the "Stormwater Management
16 and Combined Sewer Overflow Abatement Trust Fund," for use by the
17 trust as hereinafter provided.

18 (cf: P.L.1989, c.181, s.14)

19

20 5. Section 15 of P.L.1989, c.181 is amended to read as follows:

21 15. a. (1) The moneys in the "Stormwater Management and
22 Combined Sewer Overflow Abatement Fund" are specifically dedicated
23 and shall be applied to the [cost of the purposes set forth in section 5
24 of this act] financing of the costs of stormwater management and
25 combined sewer overflow abatement projects, as set forth in section
26 5 of P.L.1989, c.181, and designated and authorized pursuant to
27 section 28 of P.L.1989, c.181. However, no moneys in the fund shall
28 be expended for those purposes, except as otherwise authorized by
29 this act, without the specific appropriation thereof by the Legislature,
30 but bonds may be issued as herein provided, notwithstanding that the
31 Legislature shall not have then adopted an act making a specific
32 appropriation of any of the moneys. Any act appropriating moneys
33 from the "Stormwater Management and Combined Sewer Overflow
34 Abatement Fund" shall identify the project to be funded by the
35 moneys.

36 Payments of principal and interest on loans made from the
37 "Stormwater Management and Combined Sewer Overflow Abatement
38 Fund" shall be returned to that fund for use for any authorized purpose
39 to which moneys in the fund may be used pursuant to P.L.1989, c.181.
40 Moneys in the "Stormwater Management and Combined Sewer
41 Overflow Abatement Fund" may be made available to the trust, with
42 the concurrence of the department, for temporary use by the trust for
43 any of the purposes set forth in paragraph (2) of this subsection, under
44 terms and conditions established therefor by the commissioner and the
45 trust and approved by the State Treasurer.

1 The trust shall repay to the "Stormwater Management and
2 Combined Sewer Overflow Abatement Fund" any sums made available
3 for temporary use. Repayment shall be in accordance with the terms
4 and conditions approved therefor.

5 (2) The moneys in the "Stormwater Management and Combined
6 Sewer Overflow Abatement Trust Fund" are specifically dedicated and
7 allocated to, and shall be applied to the cost of, the establishment by
8 the trust of reserve and loan guarantee accounts within that fund. The
9 reserve account is to be used to secure debt issued by the trust
10 pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.); and the guarantee
11 account is to be used by the trust to secure debt issued by a local
12 government unit. The trust shall not directly or indirectly use any
13 moneys paid to it pursuant to this paragraph for the purpose of issuing
14 a loan guarantee in connection with the financing of a stormwater
15 management or combined sewer overflow abatement project, unless
16 the project, and the amount and the terms or conditions of the loan
17 guarantee, shall have been approved by the Legislature. Moneys in the
18 reserve and loan guarantee accounts may be made available to the
19 department, with the concurrence of the trust, for temporary use by
20 the department in implementing the provisions of P.L.1989, c.181,
21 under terms and conditions established therefor by the commissioner
22 and the trust and approved by the State Treasurer. The department
23 shall repay to the "Stormwater Management and Combined Sewer
24 Overflow Abatement Trust Fund" any sums made available for
25 temporary use. Repayment shall be in accordance with the terms and
26 conditions approved therefor.

27 (3) Moneys in the "Stormwater Management and Combined Sewer
28 Overflow Abatement Fund" may be transferred to the trust for use as
29 set forth in paragraph (2) of this subsection.

30 b. At any time prior to the issuance and sale of bonds under this
31 act, the State Treasurer is authorized to transfer from any available
32 moneys in any fund of the treasury of the State to the credit of the
33 "Stormwater Management and Combined Sewer Overflow Abatement
34 Fund" or the "Stormwater Management and Combined Sewer
35 Overflow Abatement Trust Fund" those sums as the State Treasurer
36 may deem necessary. The sums so transferred shall be returned to the
37 same fund of the treasury of the State by the State Treasurer from the
38 proceeds of the sale of the first issue of bonds.

39 c. Pending their application to the purposes provided in this act,
40 the moneys in the "Stormwater Management and Combined Sewer
41 Overflow Abatement Fund" may be invested and reinvested as are
42 other trust funds in the custody of the State Treasurer, in the manner
43 provided by law, and moneys in the "Stormwater Management and
44 Combined Sewer Overflow Abatement Trust Fund" may be invested
45 and reinvested by the trust as are other trust funds in the custody of

1 the [State Treasurer, in the manner provided by law] trust.

2 Net earnings received from the investment or deposit of moneys in
3 the "Stormwater Management and Combined Sewer Overflow
4 Abatement Fund" shall be paid [into the General Fund] to that fund,
5 and net earnings received from the investment or deposit of moneys in
6 the "Stormwater Management and Combined Sewer Overflow
7 Abatement Trust Fund" shall be paid to that fund for use by the trust
8 to cover administrative expenses incurred in administering that fund.
9 Any moneys not required for administrative expenses shall be used for
10 any other authorized purpose to which moneys in the "Stormwater
11 Management and Combined Sewer Overflow Abatement Trust Fund"
12 may be used .

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

20 (cf: P.L.1989, c.181, s.15)

21

22 6. Section 28 of P.L.1989, c.181 is amended to read as follows:

23 28. The commissioner shall [for each fiscal year], on or before
24 January 15 of each year, develop and submit to the Legislature a
25 priority system for stormwater management system and combined
26 sewer overflow abatement projects and shall establish the ranking
27 criteria and funding policies for the projects therefor. The
28 commissioner shall set forth a stormwater management system and
29 combined sewer overflow abatement project priority list for funding
30 for each fiscal year and shall include the aggregate amount of funds to
31 be authorized for these purposes. No [monies] moneys shall be
32 expended for grants or loans in a fiscal year for any stormwater
33 management system or combined sewer overflow abatement project
34 unless the expenditure is authorized pursuant to an appropriations act.
35 As part of the annual submission required by this subsection, the
36 department and the trust shall each provide a financial accounting of
37 all project expenditures made in the preceding year, and of all
38 administrative expenses incurred by the trust from interest earnings
39 from the "Stormwater Management and Combined Sewer Overflow
40 Abatement Trust Fund" in connection therewith.

41 (cf: P.L.1989, c.181, s.28)

42

43 7. Section 29 of P.L.1989, c.181 is amended to read as follows:

44 29. Not less than 30 days prior to entering into any contract,
45 lease, obligation, or agreement to effectuate the purposes of this act,

1 the commissioner or the trust shall report to and consult with the Joint
2 Budget Oversight Committee, or its successor.

3 (cf: P.L.1989, c.181, s.29)

4

5 8. Section 30 of P.L.1989, c.181 is amended to read as follows:

6 30. a. All appropriations from the [bond fund] "Stormwater
7 Management and Combined Sewer Overflow Abatement Fund" shall
8 be by specific allocation for each project, and any transfer of any funds
9 so appropriated shall require the approval of the Joint Budget
10 Oversight Committee or its successor.

11 b. Notwithstanding any other provision of P.L.1989, c.181, as
12 amended, the department is authorized to use monies in the
13 "Stormwater Management and Combined Sewer Overflow Abatement
14 Fund" for direct program administrative costs incurred in
15 implementing the provisions of P.L.1989, c.181, as amended, subject
16 to the annual appropriation thereof by the Legislature. In no event
17 may the Legislature appropriate to the Department of Environmental
18 Protection or to any other State department or entity from the
19 "Stormwater Management and Combined Sewer Overflow Abatement
20 Fund," either directly or indirectly, any monies for indirect program
21 costs or fringe benefit costs. The total sum of all appropriations to the
22 Department of Environmental Protection and to any other State
23 department or entity from the "Stormwater Management and
24 Combined Sewer Overflow Abatement Fund" for direct program
25 administrative costs may not exceed in any fiscal year the total sum of
26 all appropriations that were made to the Department of Environmental
27 Protection from the proceeds of bonds, interest, and loan repayments
28 pursuant to P.L.1989, c.181, for direct program administrative costs,
29 pursuant to P.L.1996, c.42, plus an annual increase of not more than
30 three percent. In calculating the total sum of all appropriations made
31 to the Department of Environmental Protection for direct program
32 administrative costs pursuant to P.L.1996, c.42, the Legislature may
33 not include any appropriations made for indirect program
34 administrative costs and fringe benefit costs. The provisions of this
35 subsection shall not affect the ability of the Trust to use monies for its
36 administrative expenses as specifically provided in P.L.1989, c.181, as
37 amended.

38 (cf: P.L.1989, c.181, s.30)

39

40 9. (New section) For the purpose of complying with the
41 provisions of the State Constitution, this act shall be submitted to the
42 people at the general election to be held in the month of November,
43 1997. To inform the people of the contents of this act, it shall be the
44 duty of the Secretary of State, after this section takes effect, and at
45 least 60 days prior to the election, to cause this act to be published at

1 least once in one or more newspapers of each county, if any
 2 newspapers are published therein, and to notify the clerk of each
 3 county of this State of the passage of this act; and the clerks
 4 respectively, in accordance with the instructions of the Secretary of
 5 State, shall have printed on each of the ballots the following:

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

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

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

12

	YES	<p style="text-align: center;"> AMENDMENT TO THE STORMWATER MANAGEMENT AND COMBINED SEWER OVERFLOW ABATEMENT BOND ACT OF 1989 </p> <p> Shall the amendments to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," which authorize the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust to use such bonds to make grants or low or zero interest loans to local governments for financing the cost of stormwater management and combined sewer overflow abatement projects, which limit the State's ability to use bond moneys to cover administrative costs incurred therewith, which authorize the Trust to use interest earnings on bond moneys to cover administrative costs incurred therewith, and which authorize the Trust to establish reserve and guarantee accounts in conjunction therewith, be approved? </p>
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1		INTERPRETIVE STATEMENT
2		If approved, bond moneys in the "Stormwater
3		Management and Combined Sewer Overflow
4		Abatement Bond Act of 1989," could be used by
5		the Department of Environmental Protection and
6		the New Jersey Environmental Infrastructure
7		Trust to make grants or low or zero interest loans
8		to local governments. The grants or loans are to
9		be used to finance the costs of projects to manage
10		stormwater and to abate overflows of combined
11		wastewater and stormwater sewers in order to
12		stop or decrease pollutants from going into the
13		State's waters. The voters approved the original
14	NO	bond act in 1989. These changes would permit the
15		Department and the Trust to administer a
16		combined loan and loan guarantee program for
17		stormwater management and combined sewer
18		overflow abatement projects. The bill provides
19		that the State would be limited in using bond
20		monies for administrative expenses, that the Trust
21		would be permitted to cover its administrative
22		costs out of interest earned on bond moneys, and
23		that the Trust would be permitted to establish
24		reserve and guarantee accounts for loan moneys.
25		Approval of these revisions to the "Stormwater
26		Management and Combined Sewer Overflow
27		Abatement Bond Act of 1989" would not involve
28		any new State bonded indebtedness.

29

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

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

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

5

6 11. Sections 9 and 10 of this act shall take effect immediately, and
7 the remainder of the act shall take effect as and when provided in
8 section 9 of this act.

9

10

11

12

13 Amends the "Stormwater Management and Combined Sewer Overflow
14 Abatement Bond Act of 1989," appropriates \$5,000.16,