

SENATE, No. 2143

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1997

By Senator McNAMARA

1 AN ACT concerning the bonded indebtedness of the New Jersey
2 Wastewater Treatment Trust, and amending P.L.1985, c.334.

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

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

9 6. a. Except as may be otherwise expressly provided in the
10 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), the trust may from
11 time to time issue its bonds, notes or other obligations in any principal
12 amounts as in the judgment of the trust shall be necessary to provide
13 sufficient funds for any of its corporate purposes, including the
14 payment, funding or refunding of the principal of, or interest or
15 redemption premiums on, any bonds, notes or other obligations issued
16 by it, whether the bonds, notes or other obligations or the interest or
17 redemption premiums thereon to be funded or refunded have or have
18 not become due, the establishment or increase of reserves or other
19 funds to secure or to pay the bonds, notes or other obligations or
20 interest thereon and all other costs or expenses of the trust incident to
21 and necessary to carry out its corporate purposes and powers.

22 b. Whether or not the bonds, notes or other obligations of the trust
23 are of a form and character as to be negotiable instruments under the
24 terms of Title 12A of the New Jersey Statutes, the bonds, notes and
25 other obligations are made negotiable instruments within the meaning
26 of and for the purposes of Title 12A of the New Jersey Statutes,
27 subject only to the provisions of the bonds, notes and other obligations
28 for registration.

29 c. Bonds, notes or other obligations of the trust shall be authorized
30 by a resolution or resolutions of the trust and may be issued in one or
31 more series and shall bear any date or dates, mature at any time or
32 times, bear interest at any rate or rates of interest per annum, be in any
33 denomination or denominations, be in any form, either coupon,
34 registered or book entry, carry any conversion or registration

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 privileges, have any rank or priority, be executed in any manner, be
2 payable in any coin or currency of the United States which at the time
3 of payment is legal tender for the payment of public and private debts,
4 at any place or places within or without the State, and be subject to
5 any terms of redemption by the trust or the holders thereof, with or
6 without premium, as the resolution or resolutions may provide. A
7 resolution of the trust authorizing the issuance of bonds, notes or
8 other obligations may provide that the bonds, notes or other
9 obligations be secured by a trust indenture between the trust and a
10 trustee, vesting in the trustee any property, rights, powers and duties
11 in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1
12 et seq.) as the trust may determine.

13 d. Bonds, notes or other obligations of the trust may be sold at any
14 price or prices and in any manner as the trust may determine. Each
15 bond, note or other obligation shall mature and be paid not later than
16 20 years from the effective date thereof, or the certified useful life of
17 the project or projects to be financed by the bonds, whichever is less.

18 All bonds of the trust shall be sold at such price or prices and in
19 such manner as the trust shall determine, after notice of sale, a
20 summary of which shall be published at least once in at least three
21 newspapers published in the State of New Jersey, and at least once in
22 a publication carrying municipal bond notices and devoted primarily to
23 financial news, published in New Jersey or the city of New York, the
24 first notice to be at least five days prior to the day of bidding. The
25 notice of sale may contain a provision to the effect that any or all bids
26 made in pursuance thereof may be rejected. In the event of such
27 rejection or of failure to receive any acceptable bid, the trust, at any
28 time within 60 days from the date of such advertised sale, may sell
29 such bonds at private sale upon terms not less favorable to the State
30 than the terms offered by any rejected bid. The trust may sell all or
31 part of the bonds of any series as issued to any State fund or to the
32 federal government or any agency thereof, at private sale, without
33 advertisement.

34 e. Bonds, notes or other obligations of the trust may be issued
35 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) without
36 obtaining the consent of any department, division, board, bureau or
37 agency of the State, and without any other proceedings or the
38 happening of any other conditions or things, other than those consents,
39 proceedings, conditions or things which are specifically required by
40 P.L.1985, c.334 (C.58:11B-1 et seq.).

41 f. Bonds, notes or other obligations of the trust issued under the
42 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) shall not be a debt
43 or liability of the State or of any political subdivision thereof other
44 than the trust and shall not create or constitute any indebtedness,
45 liability or obligation of the State or any political subdivision, but all
46 these bonds, notes and other obligations, unless funded or refunded by

1 bonds, notes or other obligations, shall be payable solely from
2 revenues or funds pledged or available for their payment as authorized
3 in P.L.1985, c.334 (C.58:11B-1 et seq.). Each bond, note and
4 obligation shall contain on its face a statement to the effect that the
5 trust is obligated to pay the principal thereof or the interest thereon
6 only from its revenues, receipts or funds pledged or available for their
7 payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) and
8 that neither the State, nor any political subdivision thereof, is
9 obligated to pay the principal or interest and that neither the faith and
10 credit nor the taxing power of the State, or any political subdivision
11 thereof, is pledged to the payment of the principal of or the interest on
12 the bonds, notes or other obligations.

13 g. The aggregate principal amount of bonds, notes or other
14 obligations, including subordinated indebtedness of the trust, shall not
15 exceed \$600,000,000.00, except that, for the purposes of
16 implementing the Fiscal Year 1994 Financial Plan as approved by the
17 Legislature pursuant to SCR No. 118 of 1993 and ACR No. 138 of
18 1993, the Fiscal Year 1995 Financial Plan as approved by the
19 Legislature pursuant to SCR No. 74 of 1994 and ACR No. 78 of 1994,
20 the Fiscal Year 1996 Financial Plan as approved by the Legislature
21 pursuant to SCR No. 105 of 1995 and ACR No. 15 of 1995, [and] the
22 Fiscal Year 1997 Financial Plan as approved by the Legislature
23 pursuant to SCR No. 75 of 1996 and ACR No. 14 of 1996, and the
24 Fiscal Year 1998 Financial Plan as approved by the Legislature
25 pursuant to SCR No. of 1997 and ACR No. of 1997, the trust
26 may exceed the foregoing limitations. In computing the foregoing
27 limitations there shall be excluded all the bonds, notes or other
28 obligations, including subordinated indebtedness of the trust, which
29 shall be issued for refunding purposes, whenever the refunding shall be
30 determined to result in a debt service savings, as hereinafter provided:

31 (1) Upon the decision by the trust to issue refunding bonds, and
32 prior to the sale of those bonds, the trust shall transmit to the Joint
33 Appropriations Committee's Subcommittee on Transfers, or its
34 successor, a report that a decision has been made, reciting the basis on
35 which the decision was made, including an estimate of the debt service
36 savings to be achieved and the calculations upon which the trust relied
37 when making the decision to issue refunding bonds. The report shall
38 also disclose the intent of the trust to issue and sell the refunding
39 bonds at public or private sale and the reasons therefor.

40 (2) The Joint Appropriations Committee's Subcommittee on
41 Transfers shall have the authority to approve or disapprove the sales
42 of refunding bonds as included in each report submitted in accordance
43 with paragraph (1) of this subsection. The subcommittee shall notify
44 the trust in writing of the approval or disapproval as expeditiously as
45 possible.

46 (3) No refunding bonds shall be issued unless the report has been

1 submitted to and approved by the Joint Appropriations Committee's
2 Subcommittee on Transfers as set forth in paragraphs (1) and (2) of
3 this subsection.

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

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

14 h. Each issue of bonds, notes or other obligations of the trust may,
15 if it is determined by the trust, be general obligations thereof payable
16 out of any revenues, receipts or funds of the trust, or special
17 obligations thereof payable out of particular revenues, receipts or
18 funds, subject only to any agreements with the holders of bonds, notes
19 or other obligations, and may be secured by one or more of the
20 following:

21 (1) Pledge of revenues and other receipts to be derived from the
22 payment of the interest on and principal of notes, bonds or other
23 obligations issued to the trust by one or more local government units,
24 and any other payment made to the trust pursuant to agreements with
25 any local government units, or a pledge or assignment of any notes,
26 bonds or other obligations of any local government unit and the rights
27 and interest of the trust therein;

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

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

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

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

43 i. The trust shall not issue any bonds, notes or other obligations, or
44 otherwise incur any additional indebtedness, on or after November 5,
45 2005.

1 j. (Deleted by amendment, P.L.1996, c.88)
2 (cf: P.L.1996, c.88 s.1)

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4 2. This act shall take effect immediately.

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7 STATEMENT

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9 This bill suspends for one year the debt ceiling established under
10 P.L.1985, c.334, which limits the aggregate principal amount of
11 bonded indebtedness, including subordinated indebtedness, that the
12 New Jersey Wastewater Treatment Trust may incur, to \$600 million.

13 Specifically, this bill suspends the current debt ceiling in order to
14 implement the Trust's Fiscal Year 1998 Financial Plan as approved by
15 the Legislature pursuant to SCR No. of 1997 and ACR No. of
16 1997, and as embodied in Senate Bill Nos. and of 1997 and
17 Assembly Bill Nos. and of 1997. Under the Fiscal Year 1998
18 Financial Plan, the Trust and the Department of Environmental
19 Protection would make loans to local governments for the
20 construction of eligible wastewater treatment system projects.

21 Under Senate Bill No. of 1997 and Assembly Bill No. of
22 1997, the Trust is authorized to expend up to \$50 million, and any
23 unexpended balances from the authorizations made by P.L.1994,
24 c.105, P.L.1995, c.218 and P.L.1996, c.87 to provide loans with an
25 interest rate at or below the prevailing market rate to local
26 governments to finance the costs of eligible wastewater treatment
27 system projects, which are included in the "State Fiscal Year 1998
28 Project Priority List."

29 A companion bill (Senate Bill No. of 1997 and Assembly Bill
30 No. of 1997) appropriates up to \$25.5 million in federal moneys
31 received pursuant to the federal "Water Quality Act of 1987," and
32 from fees and penalties from the federal "Marine Protection, Research
33 and Sanctuaries Act of 1972," to the DEP for use to provide zero
34 interest loans to local governments for the remaining portion of
35 eligible project costs and for the supplemental costs of one existing
36 project. These bills together provide loan financing for the total
37 eligible costs of a wastewater treatment system project: approximately
38 one-half of the loan amount from the Trust with interest at or below
39 the prevailing market rate and one-half from a zero interest loan from
40 the DEP.

41 In 1993, the Legislature enacted P.L.1993, c.194, which suspended
42 for one year the \$600 million debt ceiling established under P.L.1985,
43 c.334 to permit the Trust to issue bonds in order to implement the
44 Fiscal Year 1994 Financial Plan. In 1994, the Legislature enacted
45 P.L.1994, c.107, which suspended the debt ceiling for an additional
46 year to permit the Trust to issue bonds in order to implement the

1 Fiscal Year 1995 Financial Plan. In 1995, the Legislature enacted
2 P.L.1995, c.220, which suspended the debt ceiling for an additional
3 year to permit the Trust to issue bonds in order to implement the
4 Fiscal Year 1996 Financial Plan. In 1996, the Legislature enacted
5 P.L.1996, c.88, which suspended the debt ceiling for an additional year
6 to permit the Trust to issue bonds in order to implement the Fiscal
7 Year 1997 Financial Plan.

8 This bill extends the debt ceiling suspension for a fifth time to allow
9 the Trust to issue bonds in order to implement the Fiscal Year 1998
10 Financial Plan.

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16 Suspends for one year the debt ceiling on the amount of bonded
17 indebtedness that the New Jersey Wastewater Treatment Trust may
incur.