

ASSEMBLY, No. 5407

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 1, 2021

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Removes restrictions on special assessments and bond issuances for replacement of residential lead service lines; revises budgetary, maintenance, and reporting requirements for operators of certain water systems.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2021)

A5407 SCHAER, KARABINCHAK

2

1 AN ACT concerning the financing and operation of water systems,
2 supplementing Title 40A of the New Jersey Statutes, amending
3 various parts of the statutory law, and repealing section 5 of
4 P.L.2017, c.133.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to
10 read as follows:

11 3. As used in **[this act]** P.L.1957, c.183 (C.40:14B-1 et seq.) ,
12 unless a different meaning clearly appears from the context:

13 (1) "Municipality" shall mean any city of any class, any
14 borough, village, town, township, or any other municipality other
15 than a county or a school district, and except when used in section
16 4, 5, 6, 11, 12, 13, 42 or 45 of **[this act]** P.L.1957, c.183
17 (C.40:14B-4, C.40:14B-5, C.40:14B-6, C.40:14B-11, C.40:14B-12,
18 C.40:14B-13, C.40:14B-42, or C.40:14B-45) , any agency thereof
19 or any two or more thereof acting jointly or any joint meeting or
20 other agency of any two or more thereof;

21 (2) "County" shall mean any county of any class;

22 (3) "Governing body" shall mean, in the case of a county, the
23 board of chosen freeholders, or in the case of those counties
24 organized pursuant to the provisions of the "Optional County
25 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of
26 chosen freeholders and the county executive, the county supervisor
27 or the county manager, as appropriate, and, in the case of a
28 municipality, the commission, council, board or body, by whatever
29 name it may be known, having charge of the finances of the
30 municipality;

31 (4) "Person" shall mean any person, association, corporation,
32 nation, state or any agency or subdivision thereof, other than a
33 county or municipality of the State or a municipal authority;

34 (5) "Municipal authority," "authority," or "water reclamation
35 authority" shall mean a public body created or organized pursuant
36 to section 4, 5 or 6 of **[this act]** P.L.1957, c.183 (C.40:14B-4,
37 C.40:14B-5, or C.40:14B-6) and shall include a municipal utilities
38 authority created by one or more municipalities and a county
39 utilities authority created by a county;

40 (6) Subject to the exceptions provided in section 10, 11 or 12 of
41 **[this act]** P.L.1957, c.183 (C.40:14B-10, C.40:14B-11, or
42 C.40:14B-12) , "district" shall mean the area within the territorial
43 boundaries of the county, or of the municipality or municipalities,
44 which created or joined in or caused the creation or organization of
45 a municipal authority;

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 (7) "Local unit" shall mean the county, or any municipality,
2 which created or joined in or caused the creation or organization of
3 a municipal authority;

4 (8) "Water system" shall mean the plants, structures and other
5 real and personal property acquired, constructed or operated or to be
6 acquired, constructed or operated by a municipal authority or by
7 any person to whom a municipal authority has extended credit for
8 this purpose for the purposes of the municipal authority, including
9 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
10 pipelines, mains, pumping stations, water distribution systems,
11 compensating reservoirs, waterworks or sources of water supply,
12 wells, purification or filtration plants or other plants and works,
13 connections, rights of flowage or division, and other plants,
14 structures, boats, conveyances, and other real and personal property,
15 and rights therein, and appurtenances necessary or useful and
16 convenient for the accumulation, supply and redistribution of water.

17 The term "water system" shall include the replacement of service
18 connections to a publicly-owned water system, from the distribution
19 main onto privately-owned real property and into a privately-owned
20 structure, when used in reference to a project undertaken for the
21 purpose of replacing **【lead-contaminated】** residential lead service
22 **【connections】** lines, regardless of possible private service
23 connection ownership **【**, so long as the project is (a) an
24 environmental infrastructure project, as defined under section 3 of
25 P.L.1985, c.334 (C.58:11B-3), and (b) funded either by loans from
26 the New Jersey Infrastructure Bank, created pursuant to section 4 of
27 P.L.1985, c.334 (C.58:11B-4), or by loans issued through the
28 Department of Environmental Protection**】**;

29 (9) "Sewerage system" shall mean the plants, structures, on-site
30 wastewater systems and other real and personal property acquired,
31 constructed or operated or to be acquired, constructed, maintained
32 or operated by a municipal authority or by any person to whom a
33 municipal authority has extended credit for this purpose for the
34 purposes of the municipal authority, including sewers, conduits,
35 pipelines, mains, pumping and ventilating stations, sewage
36 treatment or disposal systems, plants and works, connections,
37 outfalls, compensating reservoirs, and other plants, structures,
38 boats, conveyances, and other real and personal property, and rights
39 therein, and appurtenances necessary or useful and convenient for
40 the collection, treatment, purification or disposal in a sanitary
41 manner of any sewage, liquid or solid wastes, night soil or
42 industrial wastes;

43 (10) "Utility system" shall mean a water system, solid waste
44 system, sewerage system, or a hydroelectric system or any
45 combination of such systems, acquired, constructed or operated or
46 to be acquired, constructed or operated by a municipal authority or
47 by any person to whom a municipal authority has extended credit
48 for this purpose;

1 (11) "Cost" shall mean, in addition to the usual connotations
2 thereof, the cost of acquisition or construction of all or any part of a
3 utility system and of all or any property, rights, easements,
4 privileges, agreements and franchises deemed by the municipal
5 authority to be necessary or useful and convenient therefor or in
6 connection therewith and the cost of retiring the present value of the
7 unfunded accrued liability due and owing by a municipal authority,
8 as calculated by the system actuary for a date certain upon the
9 request of a municipal authority, for early retirement incentive
10 benefits granted by the municipal authority pursuant to P.L.1991,
11 c.230 and P.L.1993, c.181, including interest or discount on bonds,
12 cost of issuance of bonds, engineering and inspection costs and
13 legal expenses, cost of financial, professional and other estimates
14 and advice, organization, administrative, operating and other
15 expenses of the municipal authority prior to and during such
16 acquisition or construction, and all such other expenses as may be
17 necessary or incident to the financing, acquisition, construction and
18 completion of said utility system or part thereof and the placing of
19 the same in operation, and also such provision or reserves for
20 working capital, operating, maintenance or replacement expenses or
21 for payment or security of principal of or interest on bonds during
22 or after such acquisition or construction as the municipal authority
23 may determine, and also reimbursements to the municipal authority
24 or any county, municipality or other person of any moneys
25 theretofore expended for the purposes of the municipal authority or
26 to any county or municipality of any moneys theretofore expended
27 for or in connection with water supply, solid waste, water
28 distribution, sanitation or hydroelectric facilities;

29 (12) "Real property" shall mean lands both within or without the
30 State, and improvements thereof or thereon, or any rights or
31 interests therein;

32 (13) "Construct" and "construction" shall connote and include
33 acts of construction, reconstruction, replacement, extension,
34 improvement and betterment of a utility system;

35 (14) "Industrial wastes" shall mean liquid or other wastes
36 resulting from any processes of industry, manufacture, trade or
37 business or from the development of any natural resource, and shall
38 include any chemical wastes or hazardous wastes;

39 (15) "Sewage" shall mean the water-carried wastes created in
40 and carried, or to be carried, away from, or to be processed by on-
41 site wastewater systems, residences, hotels, apartments, schools,
42 hospitals, industrial establishments, or any other public or private
43 building, together with such surface or ground water and industrial
44 wastes and **leacheate** leachate as may be present;

45 (16) "On-site wastewater system" means any of several
46 facilities, septic tanks or other devices, used to collect, treat,
47 reclaim, or dispose of wastewater or sewage on or adjacent to the
48 property on which the wastewater or sewage is produced, or to

1 convey such wastewater or sewage from said property to such
2 facilities as the authority may establish for its disposal;

3 (17) "Pollution" means the condition of water resulting from the
4 introduction therein of substances of a kind and in quantities
5 rendering it detrimental or immediately or potentially dangerous to
6 the public health, or unfit for public or commercial use;

7 (18) "Bonds" shall mean bonds or other obligations issued
8 pursuant to **【this act】** P.L.1957, c.183 (C.40:14B-1 et seq.) ;

9 (19) "Service charges" shall mean water service charges, solid
10 waste service charges, sewer service charges, hydroelectric service
11 charges or any combination of such charges, as said terms are
12 defined in section 21 or 22 of **【this act】** P.L.1957, c.183 (C.40:14B-
13 21 or C.40:14B-22) or in section 7 of **【this amendatory and**
14 **supplementary act】** P.L.1980, c.34 (C.40:14B-21.1) ;

15 (20) "Compensating reservoir" shall mean the structures,
16 facilities and appurtenances for the impounding, transportation and
17 release of water for the replenishment in periods of drought or at
18 other necessary times of all or a part of waters in or bordering the
19 State diverted into a utility system operated by a municipal
20 authority;

21 (21) "Sewage or water reclamation authority" shall mean a
22 public body created pursuant to the "sewerage authorities law,"
23 P.L.1946, c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof
24 or supplemental thereto;

25 (22) "County sewer authority" shall mean a sanitary sewer
26 district authority created pursuant to the act entitled "An act relating
27 to the establishment of sewerage districts in first- and second-class
28 counties, the creation of Sanitary Sewer District Authorities by the
29 establishing of such districts, prescribing the powers and duties of
30 any such authority and of other public bodies in connection with the
31 construction of sewers and sewage disposal facilities in any such
32 district, and providing the ways and means for paying the costs of
33 construction and operation thereof," approved April 23, 1946
34 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
35 thereto;

36 (23) "Chemical waste" shall mean a material normally generated
37 by or used in chemical, petrochemical, plastic, pharmaceutical,
38 biochemical or microbiological manufacturing processes or
39 petroleum refining processes, which has been selected for waste
40 disposal and which is known to hydrolize, ionize or decompose,
41 which is soluble, burns or oxidizes, or which may react with any of
42 the waste materials which are introduced into the landfill, or which
43 is buoyant on water, or which has a viscosity less than that of water
44 or which produces a foul odor. Chemical waste may be either
45 hazardous or nonhazardous;

46 (24) "Effluent" shall mean liquids which are treated in and
47 discharged by sewage treatment plants;

1 (25) "Hazardous wastes" shall mean any waste or combination
2 of waste which poses a present or potential threat to human health,
3 living organisms or the environment. "Hazardous waste" shall
4 include, but not be limited to, waste material that is toxic, corrosive,
5 irritating, sensitizing, radioactive, biologically infectious, explosive
6 or flammable;

7 (26) "Leachate" shall mean a liquid that has been in contact with
8 solid waste and contains dissolved or suspended materials from that
9 solid waste;

10 (27) "Recycling" shall mean the separation, collection,
11 processing or recovery of metals, glass, paper, solid waste and other
12 materials for reuse or for energy production and shall include
13 resource recovery;

14 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
15 generated from a municipal, industrial or other sewage treatment
16 plant, water supply treatment plant, or air pollution control facility,
17 or any other such waste having similar characteristics and effects;
18 "sludge" shall not include effluent;

19 (29) "Solid waste" shall mean garbage, refuse, and other
20 discarded materials resulting from industrial, commercial and
21 agricultural operations, and from domestic and community
22 activities, and shall include all other waste materials including
23 sludge, chemical waste, hazardous wastes and liquids, except for
24 liquids which are treated in public sewage treatment plants and
25 except for solid animal and vegetable wastes collected by swine
26 producers licensed by the State Department of Agriculture to
27 collect, prepare and feed such wastes to swine on their own farms;

28 (30) "Solid waste system" shall mean and include the plants,
29 structures and other real and personal property acquired,
30 constructed or operated or to be acquired, constructed or operated
31 by an authority or by any person to whom a municipal authority has
32 extended credit for this purpose pursuant to the provisions of **[this**
33 **act]** P.L.1957, c.183 (C.40:14B-1 et seq.) , including transfer
34 stations, incinerators, recycling facilities, including facilities for the
35 generation, transmission and distribution of energy derived from the
36 processing of solid waste, sanitary landfill facilities or other
37 property or plants for the collection, recycling or disposal of solid
38 waste and all vehicles, equipment and other real and personal
39 property and rights thereon and appurtenances necessary or useful
40 and convenient for the collection, recycling, or disposal of solid
41 waste in a sanitary manner;

42 (31) "Hydroelectric system" shall mean the plants, structures
43 and other real and personal property acquired, constructed or
44 operated or to be acquired, constructed or operated by an authority
45 pursuant to the provisions of **[this act]** P.L.1957, c.183 (C.40:14B-
46 1 et seq.) , including all that which is necessary or useful and
47 convenient for the generation, transmission and sale of
48 hydroelectric power at wholesale;

1 (32) "Hydroelectric power" shall mean the production of electric
2 current by the energy of moving water;

3 (33) "Sale of hydroelectric power at wholesale" shall mean any
4 sale of hydroelectric power to any person for purposes of resale of
5 such power;

6 (34) "Alternative electrical energy" shall mean electrical energy
7 produced from solar, photovoltaic, wind, geothermal, or biomass
8 technologies, provided that in the case of biomass technology, the
9 biomass is cultivated and harvested in a sustainable manner;

10 (35) "Alternative electrical energy system" shall mean any
11 system which uses alternative electrical energy to provide all or a
12 portion of the electricity for the heating, cooling, or general
13 electrical energy needs of a building;

14 (36) "Pilot county" shall mean a county of the second class
15 having a population between 280,000 and 290,000, a population
16 between 510,000 and 520,000, and a population between 530,000
17 and 540,000 according to the 2010 federal decennial census; **and**

18 (37) "Pilot county utilities authority" shall mean a county
19 utilities authority in a county designated as a pilot county; and

20 (38) "Lead service line" means a water supply connection that is
21 made of, or lined with, materials consisting of lead and that
22 connects a water main to a building inlet. A lead pigtail, lead
23 gooseneck, or other lead fitting shall be considered a lead service
24 line, regardless of the other materials in the service line. A
25 galvanized service line shall be considered a lead service line. A
26 lead service line may be owned by the supplier of water, a property
27 owner, or both.

28 (cf: P.L.2018, c.114, s.1)

29

30 2. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
31 read as follows:

32 20. Every municipal authority shall be a public body politic and
33 corporate constituting a political subdivision of the State
34 established as an instrumentality exercising public and essential
35 governmental functions to provide for the public health and welfare
36 and shall have perpetual succession and have the following powers:

37 (1) To adopt and have a common seal and to alter the same at
38 pleasure;

39 (2) To sue and be sued;

40 (3) In the name of the municipal authority and on its behalf, to
41 acquire, hold, use and dispose of its service charges and other
42 revenues and other moneys;

43 (4) In the name of the municipal authority but for the local unit
44 or units, to acquire, rent, hold, lease as lessor, use and dispose of
45 other personal property for the purposes of the municipal authority;

46 (5) In the name of the municipal authority but for the local unit
47 or units and subject to the limitations of **this act** P.L.1957, c.183
48 (C.40:14B-1 et seq.), to acquire by purchase, gift, condemnation or

1 otherwise, or lease as lessee, real property and easements therein,
2 necessary or useful and convenient for the purposes of the
3 municipal authority, and subject to mortgages, deeds of trust or
4 other liens, or otherwise, and to hold, lease as lessor, and to use the
5 same, and to dispose of property so acquired no longer necessary
6 for the purposes of the municipal authority;

7 (6) To produce, develop, purchase, accumulate, distribute and
8 sell water and water services, facilities and products within or
9 without the district, provided that no water shall be sold at retail in
10 any municipality or county without the district unless the governing
11 body of such municipality or county shall have adopted a resolution
12 requesting the municipal authority to sell water at retail in such
13 municipality or county, and the board of public utility
14 commissioners shall have approved such resolution as necessary
15 and proper for the public convenience;

16 (7) To provide for and secure the payment of any bonds and the
17 rights of the holders thereof, and to purchase, hold and dispose of
18 any bonds;

19 (8) To accept gifts or grants of real or personal property, money,
20 material, labor or supplies for the purposes of the municipal or
21 county authority, and to make and perform such agreements and
22 contracts as may be necessary or convenient in connection with the
23 procuring, acceptance or disposition of such gifts or grants;

24 (9) To enter on any lands, waters or premises for the purpose of
25 making surveys, borings, soundings and examinations for the
26 purposes of the municipal authority, and whenever the operation of
27 a septic tank or other component of an on-site wastewater system
28 shall result in the creation of pollution or contamination source on
29 private property such that under the provisions of R.S.26:3-49, a
30 local board of health would have the authority to notify the owner
31 and require said owner to abate the same, representatives of an
32 authority shall have the power to enter, at all reasonable times, any
33 premises on which such pollution or contamination source shall
34 exist, for the purpose of inspecting, rehabilitating, securing samples
35 of any discharges, improving, repairing, replacing, or upgrading
36 such septic tank or other component of an on-site wastewater
37 system;

38 (10) To establish an inspection program to be performed at least
39 once every three years on all on-site wastewater systems installed
40 within the district which inspection program shall contain the
41 following minimum notice provisions: (i) not less than 30 days
42 prior to the date of the inspection of any on-site wastewater system
43 as described herein, the authority shall notify the owner and
44 resident of the property that the inspection will occur; and (ii) not
45 less than 60 days prior to the date of the performance of any work
46 other than an inspection, the municipal authority shall provide
47 notice to the owner and resident of the property in which the work
48 will be performed. The notice to be provided to such owner and

1 resident under this subsection shall include a description of the
2 deficiency which necessitates the work and the proposed remedial
3 action, and the proposed date for beginning and duration of the
4 contemplated remedial action;

5 (11) To prepare and file in the office of the municipal authority
6 records of all inspections, rehabilitation, maintenance, and work,
7 performed with respect to on-site wastewater disposal systems;

8 (12) To make and enforce bylaws or rules and regulations for
9 the management and regulation of its business and affairs and for
10 the use, maintenance and operation of the utility system and any
11 other of its properties, and to amend the same;

12 (13) To do and perform any acts and things authorized by **[this**
13 **act]** P.L.1957, c.183 (C.40:14B-1 et seq.) under, through , or by
14 means of its own officers, agents and employees, or by contracts
15 with any person;

16 (14) To enter into any and all contracts, execute any and all
17 instruments, and do and perform any and all acts or things
18 necessary, convenient or desirable for the purposes of the municipal
19 authority or to carry out any power expressly given in **[this act]**
20 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to the "Local Public
21 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

22 (15) To extend credit or make loans to any person for the
23 planning, designing, acquiring, constructing, reconstructing,
24 improving, equipping, furnishing, and operating by that person of
25 any part of a solid waste system, sewage treatment system,
26 wastewater treatment or collection system for the provision of
27 services and facilities within or without the district, which in the
28 case of a solid waste system shall be in a manner consistent with the
29 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
30 and in conformance with the solid waste management plans adopted
31 by the solid waste management districts created therein. The
32 credits or loans may be secured by loan and security agreements,
33 mortgages, leases and any other instruments, upon such terms as the
34 authority shall deem reasonable, including provision for the
35 establishment and maintenance of reserve and insurance funds, and
36 to require the inclusion in any mortgage, lease, contract, loan and
37 security agreement or other instrument, provisions for the
38 construction, use, operation and maintenance and financing of that
39 part of the aforementioned systems as the authority may deem
40 necessary or desirable;

41 (16) Upon the request of a customer: (i) to offer the customer
42 the ability to receive or access, in electronic format, any periodic
43 bill for service sent by the municipal authority to its customers and
44 any additional information sent by the municipal authority to its
45 customers as required by law, provided that any notice of
46 disconnection, discontinuance or termination of service shall be
47 sent to a customer in written form at the customer's legal mailing
48 address in addition to being sent or being made available in

1 electronic format; and (ii) to provide the customer the option of
2 paying any such periodic bill via electronic means;

3 (17) In the case of an authority that is a pilot county utilities
4 authority, to fund improvements to county infrastructure pursuant to
5 the provisions of subsection b. of section 40 of P.L.1957, c.183
6 (C.40:14B-40); and

7 (18) To **【construct or reconstruct and】** finance the replacement
8 of service connections to a publicly-owned water system, from the
9 distribution main onto privately-owned real property and into the
10 privately-owned structure, for the purpose of replacing residential
11 lead **【contaminated】** service **【connections】** lines, regardless of
12 possible private service connection ownership **【**, so long as the
13 project is (a) undertaken as an environmental infrastructure project,
14 as defined under section 3 of P.L.1985, c.334 (C.58:11B-3), and (b)
15 funded either by loans from the New Jersey Infrastructure Bank,
16 created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), or by
17 loans issued through the Department of Environmental Protection **】**.
18 (cf: P.L.2018, c.114, s.2)

19

20 3. R.S.40:56-1 is amended to read as follows:

21 R.S.40:56-1. A local improvement is one, the cost of which, or a
22 portion thereof, may be assessed upon the lands in the vicinity
23 thereof benefited thereby.

24 Any municipality may undertake any of the following works as a
25 local improvement; and the governing body thereof may make,
26 amend, repeal and enforce ordinances for carrying into effect all
27 powers granted in this section:

28 a. The laying out, opening or establishing of a new street,
29 alley, or other public highway, or portion thereof.

30 b. The widening, straightening, extension, alteration or
31 changing in any manner of the location of a street, alley or other
32 public highway, or portion thereof.

33 c. The grading or alteration of the grade of a street, alley or
34 other public highway, or portion thereof.

35 d. The paving, repaving, or otherwise improving or
36 reimproving a street, alley or other public highway, or portion
37 thereof.

38 e. The curbing or recurbing, guttering or reguttering of a
39 sidewalk in, upon, or along a street, alley or other public highway,
40 or portion thereof.

41 f. The construction, reconstruction, improvement and
42 reimprovement of bridges and viaducts.

43 g. The construction, reconstruction, improvement,
44 reimprovement or relocation of a public walk or driveway on any
45 beach, or along the ocean or any river or other waterway.

46 h. The improvement or reimprovement of any beach or water
47 front, and the providing of suitable protection to prevent damage to

- 1 lands or property by the ocean or other waters, including the filing
2 in and grading necessary for the protection of such improvements.
- 3 i. The construction, reconstruction, enlargement or extension
4 of a sewer or drain in, under or along a street, alley or public
5 highway, or portion thereof, or in, under or along any public or
6 private lands; the construction, reconstruction, enlargement or
7 extension of a system of sewerage or drainage or both combined;
8 the construction, reconstruction, enlargement or extension of a
9 system of drainage of the marshes and wet lowlands within the
10 municipality; the construction, reconstruction, enlargement or
11 alteration of a system of works for the sanitary disposal of sewage
12 or drainage.
- 13 j. (1) The installation of service connections to a system of
14 water, gas, light, heat or power works owned by a municipality or
15 otherwise, including all such works as may be necessary for
16 supplying water, gas, light, heat or power to real estate for whose
17 benefit such services are provided. This authorization includes, but
18 shall not be limited to, the installation of service connections to a
19 publicly-owned water system, from the distribution main onto
20 privately-owned real property and into the privately-owned
21 structure, for the purpose of replacing **【lead-contaminated】**
22 residential lead service **【connections】** lines, regardless of possible
23 private service connection ownership **【**, so long as the project is (a)
24 undertaken as an environmental infrastructure project, as defined
25 under section 3 of P.L.1985, c.334 (C.58:11B-3), and (b) funded
26 either by loans from the New Jersey Infrastructure Bank, created
27 pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), or by loans
28 issued through the Department of Environmental Protection**】**;
- 29 (2) The installation of service connections including the laying,
30 construction or placing of mains, conduits or cables in, under or
31 along a street, alley or other public highway or portion thereof.
- 32 k. The construction, reconstruction, enlargement or extension
33 of any water main or other works for the distribution of water
34 supplied by the State or any of its political subdivisions, or any
35 public agency of any of the same.
- 36 l. The installation of such lighting standards, appliances and
37 appurtenances as may be required for the brilliant illumination of
38 the streets in those parts of the municipality where the governing
39 body of the municipality may deem it necessary or proper to
40 establish what is commonly called a "white way."
- 41 m. The widening, deepening or improvement of any stream,
42 creek, river or other waterway.
- 43 n. The removal of obstructions in, and the constructing,
44 reconstructing, enlarging or extending of any waterway, of
45 enclosing walls, or of a pipe or conduit or any brook or
46 watercourse, or part of same.

1 o. The defining of the location and the establishment of widths,
2 grades and elevations of any stream, creek, river or other waterway,
3 and the preventing of encroachments upon the same.

4 p. The reclaiming, filling and improving and bulkheading and
5 filling in lands lying under tidal or other water, in whole or in part,
6 within the municipality; the reclaiming or filling or bulkheading
7 and filling those lands or lands adjacent to such reclaimed or filled
8 lands; to dredge channels or improve harbor approaches in the
9 waters abounding the lands to be reclaimed, filled and improved, or
10 bulkheaded and filled; provided, the approval of the **【Planning and**
11 **Development Council of the Division of Planning and Development**
12 **in the Department of Conservation and Economic Development of**
13 **the State of New Jersey】 Tidelands Resource Council established**
14 **pursuant to section 10 of P.L.1948, c.448 (C.13:1B-10)** , and when
15 necessary, the permission of the **【Federal】 federal** authorities in
16 charge of the district port in which the improvements are proposed
17 to be made, to improve and dredge channels and construct and
18 improve the harbor approaches to those lands, shall be first had and
19 obtained.

20 The governing body may enter into agreements with the **【Federal**
21 **Government】 federal government** for reimbursement to the
22 municipality for all or a portion of the cost of dredging channels or
23 improving harbor approaches in waters under the jurisdiction of the
24 **【Federal Government】 federal government** .

25 If any portion of the amount assessed against the lands within the
26 municipality for the improvement shall be reimbursed to the
27 municipality by the **【Federal Government】 federal government** after
28 the assessment has been made, then a credit shall be made on each
29 assessment levied in proportion to the amount so received from the
30 **【Federal Government】 federal government** ; provided, the amount
31 received by the municipality from the **【Federal Government】**
32 **federal government** shall be in excess of the amount fixed in the
33 assessment to be borne by the municipality at large.

34 If any portion of the land included within lands benefited or
35 improved by any work done in connection with the reclaiming,
36 filling or bulkheading and filling shall be riparian lands or lands
37 under water, for which the riparian grant has not theretofore been
38 made by the State, the municipal board or body authorized to make
39 assessments for improvements in accordance with this subtitle may
40 include in any such assessment a prospective assessment against the
41 riparian lands or lands under water, and a copy of such prospective
42 assessment shall be filed with the **【Planning and Development**
43 **Council of the Division of Planning and Development in the**
44 **Department of Conservation and Economic Development of the**
45 **State of New Jersey】 Tidelands Resource Council** and shall be a
46 part of the records of that council. Upon the sale or grant by the
47 State of the riparian rights to any such lands for which a prospective

1 assessment has been filed with the council, the amount of such
2 prospective assessment together with interest at the rate of five [per
3 centum (5%) per annum] percent annually from the time of the
4 confirmation of the assessment for the improvement shall be
5 included by [said Planning and Development Council] the
6 Tidelands Resource Council in the purchase price fixed for such
7 lands and made a part of the payment for the grant, and the amount
8 of the assessment with interest, when paid, shall be turned over by
9 [said Planning and Development Council] the Tidelands Resource
10 Council to the municipality making the assessment. Such
11 prospective assessment shall also be included in the general
12 assessment for and against any such riparian lands or lands under
13 water for which an annual rental or fee is being charged or collected
14 by [said Planning and Development Council] the Tidelands
15 Resource Council under any agreement by which the fee of any
16 such riparian lands is passed, and when the fee does so pass by
17 grant from the State the prospective assessment shall become
18 immediately due and payable, together with interest thereon at the
19 rate of five [per centum (5%) per annum] percent annually from
20 the time of the confirmation of the assessment for the improvement
21 and the assessment shall become a lien upon those lands until paid
22 and shall be collectible as other liens for public improvements in
23 the municipality. Should [said Planning and Development
24 Council] the Tidelands Resource Council lease for a term of years
25 any such riparian lands or lands under water, included within lands
26 benefited or improved by any work done in connection with the
27 reclaiming, filling or bulkheading and filling, it shall include in the
28 annual rental to be charged therefor one-tenth of the amount of the
29 prospective assessment for each year of the term not exceeding ten
30 years until the prospective assessment and the interest thereon at the
31 rate of five [per centum (5%) per annum] percent annually from
32 the time of confirmation of the assessment for the improvement,
33 shall be paid. If the lease shall be for a period less than ten years,
34 such provision shall be contained in any and all extensions and
35 renewals thereof, or in any new leases until the full prospective
36 assessment with such interest shall have been paid. Nothing
37 contained in this subparagraph shall apply to lands owned by a
38 company whose rates are subject to regulation by the Board of
39 Public [Utility Commissioners] Utilities.

40 Whenever convenient more than one of the works provided for in
41 this section may be carried on as one improvement. Any
42 municipality may undertake any or all of the works mentioned in
43 this section as a general improvement to be paid for by general
44 taxation, and any municipality may provide for the maintenance,
45 repair and operation of any or all of said works by taxation whether
46 the same are undertaken as local or general improvements.

47 (cf: P.L.2018, c.114, s.3)

1 4. R.S.40:56-35 is amended to read as follows:

2 40:56-35. The governing body may by resolution provide that
3 the owner of any real estate upon which any assessments for any
4 improvement shall have been made may pay such assessments in
5 such equal yearly or quarterly installments, not exceeding ten years
6 in duration, except as hereinafter provided, with legal interest
7 thereon, and at such time in each year as the governing body shall
8 determine, but any person assessed may pay the whole of any
9 assessment, or any balance of installments, with accrued interest
10 thereon, at one time. If any such installment shall remain unpaid
11 for 30 days after the time when the same shall have become due,
12 either:

13 a. the whole assessment or balance due thereon shall become
14 and be immediately due, shall draw interest at the rate imposed
15 upon the arrearage of taxes in such municipality and be collected in
16 the same manner as is provided by this subtitle for other past due
17 assessments; or

18 b. the governing body may, by resolution, permit any person
19 who is delinquent in the payment of such an installment to pay only
20 the amount of the delinquent payment and any interest on the
21 delinquent payment that has accrued from the date that the
22 installment was due and payable until the date that payment of the
23 delinquent installment is made. After the delinquent installment is
24 satisfied, the person assessed shall be reinstated on a regular
25 installment payment schedule.

26 Whenever any owner shall be given the privilege of paying any
27 assessment in installments such assessment shall remain a lien upon
28 the land described therein until the same with all installments and
29 accrued interest thereon shall be paid, and no proceedings to collect
30 or enforce the same need be taken until default shall be made in the
31 payment of any installment as hereinbefore in this subtitle provided.

32 In any municipality which is constructing a local improvement
33 with funds secured from the **【Federal Government】** federal
34 government , through the public works administration, under the
35 terms of the national recovery act, the governing body may provide
36 that the assessments may be payable in yearly or quarterly
37 installments, with legal interest thereon, over a period of years up to
38 but in no event exceeding the term of years for which the funds
39 therefor are borrowed from the Federal Government, and at such
40 time in each year as the governing body shall determine. The
41 governing body may fix the yearly installments in such amounts as
42 in its opinion are equitable and just.

43 In any municipality in which the local improvement is being
44 financed by the sale of bonds, the governing body may provide that
45 the assessments may be payable in yearly or quarterly installments,
46 with legal interest thereon, over a period of years up to but in no
47 event exceeding the period of years for which the bonds were
48 issued, or for 20 years, whichever shall be less, and at such time in

1 each year as the governing body shall determine. In the case of
2 assessments for the replacement of service connections to a
3 publicly-owned water system, from the distribution main onto
4 privately-owned real property and into a privately-owned structure,
5 when used in reference to a project undertaken for the purpose of
6 replacing residential lead service lines, regardless of possible
7 private service connection ownership, the period of years may be
8 greater than 20 years but shall not exceed 30 years. The governing
9 body may fix the yearly installments in such amounts as in its
10 opinion are equitable and just.

11 (cf: P.L.1997, c.5, s.1)

12

13 5. N.J.S.40A:2-22 is amended to read as follows:

14 40A:2-22. The governing body of the local unit shall determine
15 the period of usefulness of any purpose according to its reasonable
16 life computed from the date of the bonds, which period shall not be
17 greater than the following:

18 a. Buildings and structures.

19 1. Bridges, including retaining walls and approaches, or
20 permanent structures of brick, stone, concrete or metal, or similar
21 durable construction, 30 years.

22 2. Buildings, including the original furnishings and equipment
23 therefor:

24 Class A: A building, of which all walls, floors, partitions, stairs
25 and roof are wholly of incombustible material, except the window
26 frames, doors, top flooring and wooden handrails on the stairs, 40
27 years;

28 Class B: A building, the outer walls of which are wholly of
29 incombustible material, except the window frames and doors, 30
30 years;

31 Class C: A building which does not meet the requirements of
32 Class A or Class B, 20 years.

33 3. Buildings or structures acquired substantially reconstructed
34 or additions thereto, one-half the period fixed in this subsection for
35 such buildings or structures.

36 4. Additional furnishings, five years.

37 b. Marine improvements.

38 1. Harbor improvements, docks or marine terminals, 40 years.

39 2. Dikes, bulkheads, jetties or similar devices of stone,
40 concrete or metal, 15 years; of wood or partly of wood, 10 years.

41 c. Additional equipment and machinery.

42 1. Additional or replacement equipment and machinery, 15
43 years.

44 2. Voting machines, 15 years.

45 3. Information technology and telecommunications equipment,
46 7 years, except that for items with a unit cost of less than \$5,000, 5
47 years.

48 d. Real property.

- 1 1. Acquisition for any public purpose of lands or riparian
2 rights, or both, and the original dredging, grading, draining or
3 planting thereof, 40 years.
- 4 2. Improvement of airport, cemetery, golf course, park,
5 playground, 15 years.
- 6 3. Stadia of concrete or other incombustible materials, 20
7 years.
- 8 e. Streets or thoroughfares.
- 9 1. Elimination of grade crossings, 35 years.
- 10 2. Streets or roads:
11 Class A: Rigid pavement. A pavement of not less than eight
12 inches of cement concrete or a six-inch cement concrete base with
13 not less than three-inch bituminous concrete surface course, or
14 equivalent wearing surface, 20 years.
15 Flexible pavement. A pavement not less than 10 inches in depth
16 consisting of five-inch macadam base, three-inch modified
17 penetration macadam and three-inch bituminous concrete surface
18 course or other pavements of equivalent strength, in accordance
19 with the findings of the American Association of State Highway
20 Officials (AASHO) Road Test, 20 years.
21 Class B: Mixed surface-treated road. An eight-inch surface of
22 gravel, stone or other selected material under partial control mixed
23 with cement or lime and fly ash, six inches in compacted thickness
24 with bituminous surface treatment and cover, 10 years.
25 Bituminous penetration road. A five-inch gravel or stone base
26 course and a three-inch course bound with a bituminous or
27 equivalent binder, 10 years.
28 Class C: Mixed bituminous road. An eight-inch surface of
29 gravel, stone, or other selected material under partial control mixed
30 with bituminous material one inch or more in compacted thickness,
31 five years.
32 Penetration macadam road. A road of sand, gravel or water-
33 bound macadam, or surfacing with penetration macadam, five years.
- 34 3. Sidewalks, curbs and gutters of stone, concrete or brick, 10
35 years.
- 36 The period of usefulness in this subsection shall apply to
37 construction and reconstruction of streets and thoroughfares.
- 38 f. Utilities and municipal systems.
- 39 1. Sewerage system, whether sanitary or storm water, water
40 supply or distribution system, 40 years.
- 41 2. Electric light, power or gas systems, garbage, refuse or ashes
42 incinerator or disposal plant, 25 years.
- 43 3. Communication and signal systems, 10 years.
- 44 4. **【House】** Service connections to publicly-owned gas, water
45 or sewerage systems from the service main in the street to the curb
46 or property lines where not part of original installation, five years.
- 47 5. **【House】** Service connections to publicly-owned water
48 systems, from the distribution main onto privately-owned real

1 property and into the privately-owned structure, for the purpose of
2 replacing **】**lead-contaminated house connections, so long as the
3 project is (a) undertaken as an environmental infrastructure project,
4 as defined under section 3 of P.L.1985, c.334 (C.58:11B-3), and (b)
5 funded either by loans from the New Jersey Infrastructure Bank,
6 created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), or by
7 loans issued through the Department of Environmental Protection **】**
8 residential lead service lines, 30 years.

9 g. Vehicles and apparatus.

10 1. Fire engines, apparatus and equipment, when purchased
11 new, but not fire equipment purchased separately, 10 years.

12 2. Automotive vehicles, including original apparatus and
13 equipment (other than passenger cars and station wagons), when
14 purchased new, five years.

15 3. Major repairs, reconditioning or overhaul of fire engines and
16 apparatus, ambulances, rescue vehicles, and similar public safety
17 vehicles (other than passenger cars and station wagons) which may
18 reasonably be expected to extend for at least five years the period of
19 usefulness thereof, five years.

20 h. The closure of a sanitary landfill facility utilized, owned or
21 operated by a county or municipality, 15 years; provided that the
22 closure has been approved by the Board of Public Utilities and the
23 Department of Environmental Protection. For the purposes of this
24 subsection "closure" means all activities associated with the design,
25 purchase or construction of all measures required by the
26 Department of Environmental Protection, pursuant to law, in order
27 to prevent, minimize or monitor pollution or health hazards
28 resulting from sanitary landfill facilities subsequent to the
29 termination of operations at any portion thereof, including, but not
30 necessarily limited to, the costs of the placement of earthen or
31 vegetative cover, and the installation of methane gas vents or
32 monitors and leachate monitoring wells or collection systems at the
33 site of any sanitary landfill facility.

34 i. (Deleted by amendment, P.L.2007, c.62.)

35 j. The prefunding of a claims account for environmental
36 liability claims by an environmental impairment liability insurance
37 pool pursuant to P.L.1993, c.269 (C.40A:10-38.1 et al.), 20 years.
38 (cf: P.L.2018, c.114, s.4)

39

40 6. (New section) a. A local unit shall be required to conduct a
41 periodic study of the adequacy and reasonableness of the rates, fees,
42 rents, and charges for each water utility that the local unit owns or
43 operates. The Local Finance Board in the Department of
44 Community Affairs shall adopt, pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
46 procedures, requirements, and frequency of the study. Each
47 completed study shall be submitted to the Director of the Division

1 of Local Government Services in the Department of Community
2 Affairs along with the annual budget of the local unit.

3 b. The director may summon appropriate officials of the local
4 unit to a hearing before the Local Finance Board if the director
5 determines that the rates, fees, rents, or charges for a water utility
6 may not be adequate or reasonable as determined by the study
7 conducted pursuant to subsection a. of this section, or if the local
8 unit fails to conduct a study pursuant to subsection a. of this
9 section. The Local Finance Board may require the production of
10 papers, documents, witnesses, or information and may take or cause
11 to be made an audit or investigation of the circumstances with
12 respect to which the hearing was called. After the hearing, the
13 Local Finance Board shall have the power to order the local unit to
14 adjust the rents, rates, fees, or charges of a water utility, or take
15 such other action as the Local Finance Board deems appropriate to
16 ensure the integrity of the utility's water infrastructure, and this
17 order shall be valid and enforceable notwithstanding any provision
18 of R.S.48:2-1 et seq. to the contrary.

19

20 7. N.J.S.40A:4-43 is amended to read as follows:

21 40A:4-43. The governing body may and shall, when directed by
22 the local government board, prepare, approve and adopt a budget
23 for the expenditure of public funds for capital purposes to give
24 effect to general improvement programs.

25 A capital budget shall be a plan for the expenditure of public
26 funds for capital purposes, showing as income the revenues, special
27 assessments, free surplus, and down payment appropriations to be
28 applied to the cost of a capital project or projects, expenses of
29 issuance of obligations, engineering supervision, contracts and any
30 other related expenditures. The capital budget for a local unit that
31 is required to prepare an asset management plan pursuant to section
32 7 of the "Water Quality Accountability Act," P.L.2017, c.133
33 (C.58:31-7) or that holds a permit pursuant to the "Water Pollution
34 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) shall identify the
35 infrastructure improvements to be undertaken in accordance with
36 the local unit's asset management plan or pursuant to any rule or
37 regulation pertaining to asset management adopted by the
38 Commissioner of Environmental Protection pursuant to P.L.1977,
39 c.74 (C.58:10A-1 et seq.), as applicable, and their cost.

40 (cf: N.J.S.40A:4-43)

41

42 8. N.J.S.40A:4-44 is amended to read as follows:

43 40A:4-44. The local government board shall adopt, and may
44 from time to time amend, reasonable rules and regulations for
45 capital budgets. Regulations may classify the type of budget
46 required, according to the size of the local unit, the nature of the
47 capital projects or any other reasonable basis of distinction, and
48 shall require a statement of capital undertakings underway or

1 projected for a period not greater than over the next ensuing 6 years
2 as a general improvement program. The statement of capital
3 undertakings for local unit that is required to prepare an asset
4 management plan pursuant to section 7 of the "Water Quality
5 Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a
6 permit pursuant to the "Water Pollution Control Act," P.L.1977,
7 c.74 (C.58:10A-1 et seq.) shall identify the infrastructure
8 improvements to be undertaken in accordance with the local unit's
9 asset management plan or pursuant to any rule or regulation
10 pertaining to asset management adopted by the Commissioner of
11 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1
12 et seq.), as applicable, and their cost.

13 After promulgation of regulations by the local government
14 board, the governing body shall expend or incur obligations for
15 capital purposes only after the adoption of a capital budget and in
16 accordance with such budget except for the preliminary expense of
17 plans, specifications and estimates.

18 (cf: N.J.S.40A:4-44)

19

20 9. N.J.S.40A:4-78 is amended to read as follows:

21 40A:4-78. a. If the director finds that all requirements of law
22 and of the regulations of the local government board have been met,
23 **[he]** the director shall approve the budget, otherwise **[he]** the
24 director shall refuse to approve it.

25 The director, in refusing to approve a budget, shall not substitute
26 **[his]** the director's discretion with respect to the amount of an
27 appropriation when such amount is not made mandatory because of
28 the requirements of law. If a budget fails to incorporate
29 infrastructure improvements identified in an asset management plan
30 required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) or any
31 rule or regulation pertaining to asset management adopted by the
32 Commissioner of Environmental Protection pursuant to P.L.1977,
33 c.74 (C.58:10A-1 et seq.), as applicable, the director may order the
34 inclusion of the improvements, along with any revenues or
35 appropriations necessary to fund and effectuate the improvements.
36 The director may order such other measures as the director deems
37 necessary to ensure the integrity of the local unit's water
38 infrastructure; however, the director may take into account the local
39 unit's fiscal circumstances in determining appropriate measures.

40 b. Notwithstanding the provisions of N.J.S.40A:4-10 and
41 N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is
42 authorized to adopt rules, pursuant to the "Administrative Procedure
43 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain
44 municipalities from the requirement that the director approve their
45 annual budgets and to provide instead for a system of local
46 examination and approval of such budgets by municipal officials,
47 provided that:

1 (1) the director finds that such municipalities are fiscally sound
2 and that their fiscal practices are conducted in accordance with law
3 and sound administrative practice;

4 (2) the director shall examine the budgets of such municipalities
5 in accordance with the provisions of N.J.S.40A:4-10 and
6 N.J.S.40A:4-76 through 40A:4-79, at least every third year;

7 (3) the governing body and chief financial officer of each such
8 municipality shall each file a certification with the director stating
9 that, with reference to the adopted budget of the municipality, they
10 have:

11 (a) examined the budget in the manner prescribed under
12 N.J.S.40A:4-76;

13 (b) determined that the budget complies with the requirements
14 set forth in N.J.S.40A:4-77; and

15 (c) determined that the budget complies with all other
16 provisions of law, including, but not limited to, the "Local Budget
17 Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.),
18 and the regulations of the Local Finance Board;

19 (4) all budget documents required by law or the regulations
20 adopted by the Local Finance Board shall be filed with the director
21 on a timely basis;

22 (5) other criteria and responsibilities as established by the
23 regulations adopted by the Local Finance Board are met.

24 c. The director shall act to require immediate compliance with
25 the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds
26 that any such exemption impairs the fiscal integrity or solvency of
27 any such municipality. Any appeal of a governing body's action in
28 adopting an annual budget shall be made to the director.

29 d. If a municipality has received approval for a special
30 emergency appropriation pursuant to subsection m. of N.J.S.40A:4-
31 53, that municipality shall not be eligible for local examination and
32 approval pursuant to subsection b. of this section until the fiscal
33 year after the final appropriation is made.

34 (cf: P.L.2020, c.74, s.4)

35
36 10. Section 10 of P.L.1983, c.313 (C.40A:5A-10) is amended to
37 read as follows:

38 10. a. Each authority shall submit a budget for each fiscal year
39 to the director prior to its adoption thereof. The budget shall
40 comply with the terms and provisions of any bond resolutions, and
41 shall be in such form and detail as to items of revenue, expenditure
42 and other content as shall be required by law or by rules and
43 regulations of the Local Finance Board.

44 b. The Local Finance Board shall prescribe by rule or
45 regulation the procedure for the adoption of budgets by authorities.
46 The rules and regulations may include or be similar to any
47 provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.) which
48 the Local Finance Board shall deem to be practicable or necessary,

1 and may further include any other provisions and requirements
2 which the Local Finance Board shall deem appropriate or necessary.
3 The rules and regulations shall provide for approval or disapproval
4 of a budget within 45 days of the director's receipt thereof.

5 c. The Local Finance Board shall also prescribe by rule or
6 regulation the procedures and requirements for execution of any
7 budget after adoption, and for the administration of financial affairs
8 of authorities. The rules and regulations may include, without
9 limitation, any provisions of the "Local Budget Law" (N.J.S.40A:4-
10 1 et seq.), and the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et
11 seq.), which the Local Finance Board shall deem to be practicable
12 and necessary.

13 d. Notwithstanding the provisions of subsection a. of this
14 section and **【N.J.S.40A:5A-11】** section 11 of P.L.1983, c.313
15 (C.40A:5A-11) , the Local Finance Board is authorized to adopt
16 rules and regulations, pursuant to the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain
18 authorities from the requirement that the director approve their
19 annual budgets and to provide instead for a system of local
20 examination and approval of such budgets by authority officials,
21 provided that:

22 (1) the director finds that such authorities are fiscally sound and
23 that their fiscal practices are conducted in accordance with law and
24 sound administrative practice;

25 (2) the director shall examine the budgets of such authorities in
26 accordance with the provisions of this section and **【N.J.S.40A:5A-
27 11】** section 11 of P.L.1983, c.313 (C.40A:5A-11) , at least every
28 third year;

29 (3) the governing body and chief financial officer of each such
30 authority shall each file a certification with the director stating that,
31 with reference to the adopted budget of the authority, they have:

32 (a) examined the budget in the manner prescribed under this
33 section and **【N.J.S.40A:5A-11】** section 11 of P.L.1983, c.313
34 (C.40A:5A-11) , and determined that the budget complies with
35 requirements set forth therein; and

36 (b) determined that the budget complies with all other
37 provisions of law, including, but not limited to, the "Local
38 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
39 seq.), and the regulations of the Local Finance Board;

40 (4) all budget documents required by law or the regulations
41 adopted by the Local Finance Board shall be filed with the director
42 on a timely basis;

43 (5) other criteria and responsibilities as established by the
44 regulations adopted by the Local Finance Board are met.

45 The director shall act to require immediate compliance with the
46 "Local Authorities Fiscal Control Law," P.L.1983, c.313
47 (C.40A:5A-1 et seq.), if the director finds that any such exemption
48 impairs the fiscal integrity or solvency of any such authority. Any

1 appeal of a governing body's action in adopting an annual budget
2 shall be made to the director.

3 e. The budget for an authority that is required to prepare an
4 asset management plan pursuant to section 7 of the "Water Quality
5 Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a
6 permit pursuant to the "Water Pollution Control Act," P.L.1977,
7 c.74 (C.58:10A-1 et seq.) shall identify the infrastructure
8 improvements to be undertaken in accordance with the authority's
9 asset management plan or pursuant to any rule or regulation
10 pertaining to asset management plans adopted by the Commissioner
11 of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-
12 1 et seq.), as applicable.

13 (cf: P.L.2015, c.95, s.18)

14

15 11. (New section) a. A water authority shall be required to
16 conduct a periodic study of the adequacy and reasonableness its
17 rates, fees, rents, or charges. The Local Finance Board in the
18 Department of Community Affairs shall adopt, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), the procedures, requirements, and frequency of the study.
21 Each completed study shall be submitted to the Director of the
22 Division of Local Government Services in the Department of
23 Community Affairs along with the annual budget of the authority.

24 b. The director may summon appropriate officials of the
25 authority to a hearing before the Local Finance Board if the director
26 determines that the authority's rates, fees, rents, or charges may not
27 be adequate or reasonable as supported by a study conducted
28 pursuant to subsection a. of this section, or if the authority fails to
29 conduct a study pursuant to subsection a. of this section. The Local
30 Finance Board may require the production of papers, documents,
31 witnesses, or information and may take or cause to be made an audit
32 or investigation of the circumstances with respect to which the
33 hearing was called. After the hearing, the Local Finance Board
34 shall have the power to order a water authority to adjust the rents,
35 rates, fees, or charges of the authority, or take such other action as
36 the Local Finance Board deems appropriate to ensure the integrity
37 of the water infrastructure owned by the utility, and this order shall
38 be valid and enforceable notwithstanding any provision of R.S.48:2-
39 1 et seq. to the contrary.

40

41 12. Section 11 of P.L.1983, c.313 (C.40A:5A-11) is amended to
42 read as follows:

43 11. No authority budget subject to the provisions of subsection
44 a. of section 10 of P.L.1983, c.313 (C.40A:5A-10) shall be finally
45 adopted until the director shall have approved same. In granting the
46 approval, the director shall consider whether or not:

47 a. All estimates of revenue are reasonable, accurate and
48 correctly stated;

1 b. Items of appropriation are properly set forth;

2 c. In itemization, form and content, the budget will permit the
3 exercise of the comptroller function within the authority;

4 d. The schedule of rates, fees and charges then in effect will
5 produce sufficient revenues, together with all other anticipated
6 revenues, to satisfy all obligations to the holders of bonds of the
7 authority, to meet operating expenses, capital outlays, debt service
8 requirements, and to provide for such reserves, all as may be
9 required by law, regulation or terms of contracts and agreements.

10 The director may require such documentation, records and other
11 information, and undertake any audit or investigation, as ~~he~~ the
12 director may deem necessary in connection with ~~his~~ the review.

13 If the director finds that all requirements of law and the rules and
14 regulations of the Local Finance Board have been met, ~~he~~ the
15 director shall, within 45 days ~~of his~~ after receipt of the budget,
16 approve it; otherwise ~~he~~ the director shall within that time refuse
17 to approve it. The director, in refusing to approve the budget, shall
18 not substitute ~~his~~ the director's discretion with respect to the
19 amount of an appropriation when that amount is not made
20 mandatory by law or regulation. If a budget fails to incorporate
21 infrastructure improvements identified in an asset management plan
22 required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) or any
23 regulations adopted by the Commissioner of Environmental
24 Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.)
25 pertaining to asset management, as applicable, the director may
26 order the inclusion of the improvements, along with any revenues or
27 appropriations necessary to fund and effectuate the improvements.
28 The director may order other measures as the director deems
29 necessary to ensure the integrity of the authority's water
30 infrastructure; however, the director may take into account the
31 authority's fiscal circumstances in determining appropriate
32 measures.

33 Any decision of the director in the course of budget review under
34 this section may be appealed to the Local Finance Board in the
35 manner generally provided by law.

36 (cf: P.L.2015, c.95, s.19)

37

38 13. (New section) a. Whenever there is available an
39 undesignated fund balance or unreserved retained earnings held by
40 a municipal water authority that is being dissolved by a
41 municipality, no more than five percent of the annual costs of
42 operation of the authority, as set forth in the final adopted budget of
43 the authority, may be appropriated therefrom for uses not directly
44 related to drinking water management, unless the Local Finance
45 Board determines that the municipality has demonstrated a need for
46 greater than five percent based on a showing of significant fiscal
47 distress.

1 b. The Local Finance Board may condition its approval for a
2 municipality's proposal to dissolve a municipal water authority on
3 the municipality's proposal to comply with subsection a. of this
4 section.

5 c. This section shall not apply to a regional authority.

6
7 14. N.J.S.40A:31-3 is amended to read as follows:

8 40A:31-3. As used in **[this act]** the "County and Municipal
9 Water Supply Act," N.J.S.40A:31-1 et seq. :

10 a. "Bonds" means bond anticipation notes or bonds issued in
11 accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq.

12 b. "Cost" as applied to water supply facilities or extensions or
13 additions thereto, means the cost of acquisition or the construction,
14 including improvement, reconstruction, extension or enlargement,
15 the cost of all labor materials, machinery and equipment, the cost of
16 all lands, property, rights and easements acquired, the cost of
17 demolition or removal of any buildings or structures thereon,
18 financing charges, interest on bonds issued to finance water supply
19 facilities prior to and during construction, the cost of plans and
20 specifications, surveys or estimates of costs and revenues, the cost
21 of engineering, legal services, and any other expenses necessary or
22 incident to determining the feasibility of construction,
23 administrative expenses and such other expenses as may be
24 necessary or incident to the construction or acquisition of water
25 supply facilities, and the financing thereof.

26 c. "Local unit" means a county or municipality.

27 d. "Water supply facilities" means the plants, structures or
28 other real and personal property acquired, constructed or operated,
29 or to be financed, acquired, constructed or operated, or any parts
30 thereof, including reservoirs, basins, dams, canals, aqueducts,
31 standpipes, conduits, pipelines, mains, pumping stations, water
32 distribution systems, compensating reservoirs, waterworks, or
33 sources of water supply, well, purification or filtration plants, or
34 other plants or works, connections, rights of flowage or diversion,
35 and other plants, structures, boats, conveyances and other real and
36 personal property, or rights therein, and appurtenances necessary or
37 useful for the accumulation, supply or distribution of water.
38 Source: C.40:14C-3 (P.L.1979, c.451, s.3).

39 The term "water supply facilities" includes the replacement of
40 service connections to a publicly-owned water system, from the
41 distribution main onto privately-owned real property and into a
42 privately-owned structure, when used in reference to a project
43 undertaken for the purpose of replacing **[lead-contaminated]**
44 residential lead service **[connections]** lines, regardless of possible
45 private service connection ownership **[**, so long as the project is (1)
46 an environmental infrastructure project, as defined under section 3
47 of P.L.1985, c.334 (C.58:11B-3), and (2) funded either by loans
48 from the New Jersey Infrastructure Bank, created pursuant to

1 section 4 of P.L.1985, c.334 (C.58:11B-4), or by loans issued
2 through the Department of Environmental Protection】.

3 (cf: P.L.2018, c.114, s.5)

4

5 15. Section 5 of P.L.1995, c.101 (C.58:26-23) is amended to
6 read as follows:

7 5. a. A public entity shall publish notice of its intent to enter
8 into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in at
9 least one newspaper of general circulation in the jurisdiction or
10 service area that will receive water supply services under the terms
11 of a contract and one newspaper of broad regional circulation, at
12 least 60 days prior to conducting the public hearing required under
13 section 6 of P.L.1995, c.101 (C.58:26-24). In addition, a public
14 entity that intends to enter into a contract with a private firm for the
15 provision of water supply services shall notify in writing the board,
16 department and division of its intent.

17 b. The public notice required under subsection a. of this section
18 shall describe the type of services desired and provide the name,
19 address and phone number of the person who can provide additional
20 information and a proposal document to an interested party. The
21 notice shall specify a deadline, that shall be not less than 30 days
22 from the date of the publication of the notice for the submission of
23 proposals by private firms to the public entity. The public entity
24 may at any time revise the proposal document and each private firm
25 that received a proposal document shall be provided with the
26 revised proposal document.

27 c. The public entity shall conduct a review of the proposals
28 submitted by private firms to determine which proposals meet the
29 minimum qualifications and standards. The review shall be
30 conducted in a manner that avoids disclosure of the contents of a
31 proposal to any private firm submitting a competing proposal. The
32 public entity may conduct discussions with a private firm
33 submitting a qualified proposal for the purpose of clarifying the
34 information submitted in the proposal. The public entity may at any
35 time revise its proposal document after the review of the submitted
36 proposals if it notifies simultaneously and in writing each private
37 firm that submitted a proposal of the revision and provides a
38 uniform time within which a firm may submit a revised proposal for
39 review.

40 d. A public entity shall select one qualified proposal from
41 among those submitted. The public entity shall negotiate a contract
42 with the private firm that submitted the selected proposal. If the
43 public entity is unable to negotiate a satisfactory contract with the
44 selected private firm, it may select another qualified proposal from
45 among those submitted and proceed to negotiate a contract with the
46 private firm that submitted the proposal. The public entity shall set
47 forth in writing the reasons for the selection of the qualified
48 proposal submitted by the private firm with which the public entity

1 has negotiated a proposed contract and shall make this document
2 available to the public along with the proposed contract upon
3 request and during the public hearing conducted pursuant to section
4 6 of P.L.1995, c.101 (C.58:26-24).

5 e. A contract entered into pursuant to P.L.1995, c.101
6 (C.58:26-19 et al.) shall include provisions addressing the
7 following:

8 (1) The charges, rates, fees or formulas to be used to determine
9 the charges, rates, or fees to be charged by the public entity for the
10 water supply services to be provided **[.]** ;

11 (2) The allocation of the risks of financing and constructing
12 planned capital additions or upgrades to existing water supply
13 facilities **[.]** ;

14 (3) The allocation of the risks of operating and maintaining the
15 water supply facility **[.]** ;

16 (4) The allocation of the risks associated with circumstances or
17 occurrences beyond the control of the parties to the contract **[.]** ;

18 (5) The defaulting and termination of the contract **[.]** ;

19 (6) The employment of current employees of the public entity
20 whose positions or employment will be affected by the terms of the
21 contract **[.]** ;

22 (7) The private firm's authority and the extent, or the procedures
23 for the use, of that authority to initiate, negotiate and finalize the
24 terms for a bulk sale of surplus water. The contract shall either
25 grant the private firm such authority or specifically state that the
26 firm is denied that authority. Nothing in P.L.1995, c.101 (C.58:26-
27 19. et al.) shall be construed to authorize a public entity that enters
28 into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) to
29 provide for the bulk sale, lease or transfer of water if the water
30 being transferred, leased or sold has been supplied to the public
31 entity either by the New Jersey Water Supply Authority or by the
32 North Jersey District Water Supply Commission, unless the
33 authority pursuant to P.L.1981, c.293 (C.58:1B-1 et seq.) or the
34 district pursuant to R.S.58:5-1 et seq., as appropriate, has agreed to
35 the bulk sale, lease or transfer **[.]** ;

36 (8) The requirements for the provision of a performance bond by
37 the private firm, if so required by the public entity ; and

38 (9) The allocation of responsibility for compliance with the
39 provisions of the "Water Quality Accountability Act," P.L.2017,
40 c.133 (C.58:31-1 et seq.), if applicable .

41 A contract may contain any other terms and conditions that have
42 been negotiated by the public entity and the private firm.

43 f. If a dispute over contract compliance, performance or
44 termination cannot be resolved by the public entity and the private
45 firm pursuant to the procedures set forth in the contract, either party
46 to the contract may file with the Superior Court which has
47 appropriate jurisdiction a request for an order either to terminate the

1 contract based on the reasons stated in the request or for an order
2 for other appropriate relief to the dispute. The court may take such
3 action as it may deem necessary to facilitate the expeditious
4 resolution of the dispute and an expeditious response to the request,
5 including ordering the parties to undertake a dispute resolution or
6 mediation process. The court shall use, as it deems necessary, the
7 services of a financial expert in the area of water supply service
8 contracts in its analysis of the contract and the issues before it.
9 Within 90 days after the filing of a request, the court shall either
10 grant the request or deny the request. If the request is granted, the
11 court shall order such appropriate relief measures or remedies as it
12 deems appropriate and necessary.

13 g. A public entity that has negotiated a contract with a private
14 firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall obtain the
15 written opinion of bond counsel as to effect of the contract on the
16 tax exempt status of existing and future financing instruments
17 executed by the public entity given the terms of the contract and the
18 federal laws or regulations concerning this matter.

19 h. If a public entity entering a contract consists of multiple
20 municipalities, a concession fee or other monetary benefit paid by a
21 private firm as a result of the contract shall be paid directly to the
22 municipalities constituting that public entity. Any concession fee or
23 monetary benefit paid by a private firm to a public entity shall be
24 used for the purpose of reducing or off-setting property taxes.

25 (cf: P.L.1995, c.101, s.5)

26

27 16. Section 7 of P.L.1995, c.101 (C.58:26-25) is amended to
28 read as follows:

29 7. a. Within 60 days of receipt of the application, the board
30 and division shall approve, or conditionally approve, an application
31 submitted by a public entity pursuant to subsection f. of section 6 of
32 P.L.1995, c.101 (C.58:26-24). Within 60 days of receipt of the
33 hearing report, the department shall provide any comments on the
34 hearing report it deems appropriate to the board, division and public
35 entity. If the board or division fail to approve or conditionally
36 approve the application within 60 days after receipt, the application
37 shall be deemed approved, unless the public entity has agreed to an
38 extension of the period.

39 b. If either the board or division conditionally approves the
40 application, the board or division shall state in writing the revision
41 to the proposed contract that is necessary in order for it to be
42 approved. If the board or division determines that the required
43 revision is substantial, the public entity shall hold a public hearing
44 on the revision and adhere to the provisions of section 6 of
45 P.L.1995, c.101 (C.58:26-24) in so doing. A substantial revision
46 shall be a change that results in an increase in the charges, rates or
47 fees of the private firm or that materially changes other terms and
48 conditions of the contract. The proposed revision to the contract

1 shall be submitted to the board, division and department 15 days
2 prior to the date of the public hearing. If the board or division
3 determines that the required revision in the conditional approval is
4 not substantial, the public entity shall submit the proposed revision
5 to the contract to the board and the division for approval and to the
6 department for review. The revision shall be approved if found to
7 be consistent with the conditions set forth in the conditional
8 approval, or disapproved with a written explanation as to why the
9 revision is not consistent, within 15 days after the next public
10 meeting of the board or division.

11 c. In its review of a contract, the board shall apply the
12 following criteria in determining whether to approve the contract:

13 (1) The private firm entering into the contract has the financial
14 capacity and technical and administrative experience to ensure
15 continuity of service over the term of the contract and that the
16 standards and requirements contained in the application documents
17 concerning the financial, technical and administrative capacity of
18 the private firm are necessary and sufficient to protect the public
19 interest.

20 (2) The terms of the contract are not unreasonable. In
21 determining whether the terms of the contract are not unreasonable,
22 the board shall review the fees and charges to be charged or
23 assessed under the contract to determine that they are reasonable to
24 the public entity, taking into consideration all of the obligations
25 undertaken by the private firm and all the benefits obtained by the
26 public entity. In making this determination, the board shall not use
27 the traditional rate based rate of return methodology.

28 (3) The franchise customers of a public utility participating in a
29 contract are protected from the risks of the proposed contract and
30 that they are not subsidizing the contract. If a private firm is not a
31 public utility, the board shall ensure that under the terms of the
32 proposed contract the users of water outside of the jurisdiction or
33 service area that will receive water supply services under the
34 contract are also protected from the risks of the contract and that
35 water users outside the jurisdiction or service area are not
36 subsidizing the contract through increased charges, rates or fees for
37 the supply of water.

38 (4) The contract contains the provisions required by paragraphs
39 (1), (2) and (6) of subsection e. of section 5 of P.L.1995, c.101
40 (C.58:26-23).

41 Upon approval of a contract as proposed or as revised in
42 response to a conditional approval, the jurisdiction of the board
43 over the contract shall terminate until or unless the contract is
44 amended to change the formula or other basis of determining
45 charges contained therein.

46 d. In its review of a contract, the division shall apply the
47 following criteria in determining whether to approve the contract:

1 (1) The terms of the proposed contract do not materially impair
2 the ability of the public entity to punctually pay principal and
3 interest due on its outstanding indebtedness and to supply other
4 essential public improvements and services.

5 (2) A concession fee or other monetary benefit paid by a private
6 firm as a result of the contract is paid directly to the municipalities
7 constituting that public entity, if a public entity consisting of
8 multiple municipalities has entered into a contract. Any concession
9 fee or monetary benefit paid by a private firm to a public entity is
10 used for the purpose of reducing or off-setting property taxes.

11 (3) The contract contains the provisions required by paragraphs
12 (3), (4), (5), (7) **【and】**, (8) **and** (9) of subsection e. of section 5 of
13 P.L.1995, c.101 (C.58:26-23).

14 The division shall also review and specifically approve any
15 contract provision pursuant to which a public entity will or may
16 execute a financing instrument for the purposes set forth in the
17 contract.

18 e. The board or division may provide the public entity with any
19 non-binding comments or advice during or after the review of the
20 application as the board or division deem appropriate.

21 f. The board or division shall assess and the applicant shall pay
22 a fee equal to the cost incurred by the board or division for an
23 analysis of an application by an independent person who has
24 expertise in the area of water supply services if during the review of
25 an application the board or division determine that such an analysis
26 is required and a person with the required expertise is not readily
27 available from within any executive department of the State
28 government.

29 g. If the public entity and private firm would like to amend a
30 contract after approval of an application by the board and division,
31 the public entity shall submit proposed amendments to the board
32 and division for approval and to the department for review. At the
33 next public meeting of the board and of the division after receipt of
34 proposed amendments, the board and the division shall determine
35 whether the proposed amendments are substantial. If the
36 amendments are substantial in nature as determined by either the
37 board or the division, the public entity shall conduct a hearing
38 pursuant to section 6 of P.L.1995, c.101 (C.58:26-24). Within 60
39 days of the receipt of proposed amendments that are not determined
40 to be substantial, or within 60 days of the receipt of an application
41 for approval of proposed amendments that are determined to be
42 substantial, the board and division shall approve or conditionally
43 approve the amendments in accordance with the applicable
44 procedures established for approval of an original contract pursuant
45 to this section **【7 of P.L.1995, c.101 (C.58:26-19 et al.)】** .
46 (cf: P.L.1995, c.101, s.7)

1 17. Section 2 of P.L.2017, c.133 (C.58:31-2) is amended to read
2 as follows:

3 2. As used in **[this act]** P.L.2017, c.133 (C.58:31-1 et seq.) :

4 "Board" means the Board of Public Utilities.

5 "Department" means the Department of Environmental
6 Protection.

7 "New Jersey Cybersecurity and Communications Integration
8 Cell" means the New Jersey Cybersecurity and Communications
9 Integration Cell established pursuant to Executive Order No. 178
10 (2015) in the New Jersey Office of Homeland Security and
11 Preparedness, or any successor entity.

12 "Public community water system" means the same as the term is
13 defined in section 3 of P.L.1977, c.224 (C.58:12A-3).

14 "Water purveyor" means any person that owns a public
15 community water system with more than 500 service connections.

16 (cf: P.L.2017, c.133, s.2)

17

18 18. Section 3 of P.L.2017, c.133 (C.58:31-3) is amended to read
19 as follows:

20 3. a. Each water purveyor shall inspect each valve in its
21 **[public]** water system in accordance with the provisions of
22 subsection b. of this section in order to determine (1) accessibility
23 of the valve for operational purposes, and (2) the valve's operating
24 condition. A water purveyor shall repair or replace any valve found
25 to be broken or otherwise not operational.

26 b. Each water purveyor shall inspect each valve that is 12 or
27 more inches in diameter **[at least]** in accordance with industry
28 standards and no less frequently than once every **[two]** four years,
29 and shall inspect all other valves **[at least]** in accordance with
30 industry standards and no less frequently than once every **[four]**
31 eight years, except that the requirements of this subsection shall not
32 apply to any service connection valve or customer shut-off valve.
33 At a minimum, each valve inspection conducted pursuant to this
34 subsection shall include:

35 (1) clearing of the area around the valve to ensure full access to
36 the valve for operating purposes;

37 (2) cleaning out of the valve box;

38 (3) dynamic testing of the valve, by opening and then closing
39 the valve for either of the following number of turns:

40 (a) the number of turns recommended by the valve manufacturer
41 to constitute a credible test; or

42 (b) the number of turns which constitutes 15 percent of the total
43 number of turns necessary to completely open or completely close
44 the valve; and

45 (4) complying with any other criteria as may be required by the
46 department pursuant to rules and regulations adopted pursuant to

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.).

3 c. (1) Each water purveyor shall, once a year, test every fire
4 hydrant in its system in order to determine the hydrant's working
5 condition.

6 (2) Each water purveyor shall formulate and implement a plan
7 for flushing every fire hydrant in the **【public】** water system, and
8 every dead end of a main in the **【public】** water system. This plan
9 for flushing may be combined with the periodic testing of fire
10 hydrants required pursuant to paragraph (1) of this subsection.

11 d. Each water purveyor shall keep a record of all inspections,
12 tests, and flushings conducted pursuant to this section for a period
13 of at least **【six】** 10 years.

14 e. Each water purveyor that owns, solely or jointly, a fire
15 hydrant shall mark each hydrant with the initials of its name,
16 abbreviation of its name, corporate symbol, or other distinguishing
17 mark or code by which ownership may be readily and definitely
18 ascertained. Each fire hydrant shall be marked with a number or
19 symbol, or both, by which the location of the hydrant may be
20 determined on the water purveyor's office records. The markings
21 may be made with paint, brand, **【or with】** a soft metal plate, or by
22 another method approved by the department, and shall be of such
23 size and so spaced and maintained as to be easily read.

24 f. Each water purveyor shall identify, to the extent possible,
25 the geographic location of each valve and fire hydrant in its
26 **【public】** water system using a global positioning system based on
27 satellite or other location technology.

28 (cf: P.L.2017, c.133, s.3)

29

30 19. Section 4 of P.L.2017, c.133 (C.58:31-4) is amended to read
31 as follows:

32 4. a. Within 120 days after the effective date of **【this act】**
33 P.L.2017, c.133 (C.58:31-1 et seq.) , each water purveyor shall
34 develop a cybersecurity program, in accordance with requirements
35 established by the board and the New Jersey Cybersecurity and
36 Communications Integration Cell , that defines and implements
37 organization accountabilities and responsibilities for cyber risk
38 management activities, and establishes policies, plans, processes,
39 and procedures for identifying and mitigating cyber risk to its
40 **【public】** water system. As part of the program, a water purveyor
41 shall conduct risk assessments and implement appropriate controls
42 to mitigate identified risks to the **【public】** water system, maintain
43 situational awareness of cyber threats and vulnerabilities to the
44 **【public】** water system, and create and exercise incident response
45 and recovery plans.

46 A copy of the program developed pursuant to this subsection
47 shall be provided to the New Jersey Cybersecurity and

1 Communications Integration Cell **【**, established pursuant to
2 Executive Order No. 178 (2015) in the New Jersey Office of
3 Homeland Security and Preparedness**】** .

4 b. Within 60 days after developing the program required
5 pursuant to subsection a. of this section, each water purveyor shall
6 join the New Jersey Cybersecurity and Communications Integration
7 Cell **【**, established pursuant to Executive Order No. 178 (2015),**】**
8 and create a cybersecurity incident reporting process.

9 c. **【**A water purveyor that does not have an internet-connected
10 control system shall be exempt from the requirements of this
11 section.**】** (Deleted by amendment, P.L. , c. (C.) (pending
12 before the Legislature as this bill)
13 (cf: P.L.2017, c.133, s.4)
14

15 20. Section 6 of P.L.2017, c.133 (C.58:31-6) is amended to read
16 as follows:

17 6. In addition to any other certifications required pursuant to
18 law, rule, or regulation, the responsible corporate officer of **【the】** a
19 public community water system with more than 500 service
20 connections , if privately held, executive director, if an authority, or
21 mayor or chief executive officer of the municipality, if municipally
22 owned, as applicable, shall be required to certify in writing each
23 year to the Department of Environmental Protection and, if
24 applicable, the Board of Public Utilities that the water purveyor
25 complies with: all federal and State drinking water regulations,
26 including water quality sampling, testing, and reporting
27 requirements; the hydrant and valve requirements set forth in
28 section 3 of **【this act】** P.L.2017, c.133 (C.58:31-3) ; **【the notice of**
29 **violation mitigation plan requirements set forth in section 5 of this**
30 **act, if applicable;】** and the infrastructure improvement investment
31 required pursuant to section 7 of **【this act】** P.L.2017, c.133
32 (C.58:31-7) .
33 (cf: P.L.2017, c.133, s.6)
34

35 21. Section 7 of P.L.2017, c.133 (C.58:31-7) is amended to read
36 as follows:

37 7. a. Beginning no later than 18 months after the effective date
38 of **【this act】** P.L.2017, c.133 (C.58:31-1 et seq.) , **【every water**
39 **purveyor】** an owner of a public community water system shall
40 implement an asset management plan designed to inspect, maintain,
41 repair, and renew its infrastructure consistent with standards
42 established by the American Water Works Association. The asset
43 management plan shall include:

44 (1) a water main renewal program designed to achieve a **【150-**
45 **year】** replacement cycle, **【or other appropriate replacement cycle as**
46 **determined by a detailed engineering analysis of the asset condition**
47 **and estimated service lives of the water mains serving the public**

1 water system] the duration of which shall be determined by
2 dividing the number of miles of water mains in the public
3 community water system by 100 or another calculation determined
4 to be appropriate by the department ;

5 (2) a water supply and treatment program designed to inspect,
6 maintain, repair, renew, and upgrade wells, intakes, pumps, and
7 treatment facilities in accordance with all federal and State
8 regulations [,] and standards established by the American Water
9 Works Association [, and any mitigation plan required pursuant to
10 section 5 of this act] ; [and]

11 (3) a capital improvement plan identifying the annual cost of
12 implementing each element of the asset management plan, along
13 with the sources of funding for each element;

14 (4) a certification of the completeness of the asset management
15 plan signed by the licensed operator or professional engineer of the
16 public community water system and: the responsible corporate
17 officer of the public community water system, if privately held; the
18 executive director, if an authority; or the mayor or chief executive
19 officer of the municipality, if municipally owned, as applicable; and

20 (5) any other programs, plans, or provisions as may be required
21 by the department pursuant to rules and regulations adopted
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
23 (C.52:14B-1 et seq.).

24 Each [water purveyor] owner of a public community water
25 system shall dedicate adequate funds on an annual basis [to address
26 and remediate] towards implementing its asset management plan,
27 including addressing and remediating the highest priority projects
28 as determined by its asset management plan.

29 [All asset management plans and system condition reports shall
30 be certified to by the licensed operator or professional engineer of
31 the public water system and the responsible corporate officer of the
32 public water system, if privately held, executive director, if an
33 authority, or mayor or chief executive officer of the municipality, if
34 municipally owned, as applicable. The replacement cycle shall be
35 determined by dividing the miles of water main located in the
36 public water system by 150 or other appropriate demonstration set
37 forth in the certified asset management plan prepared pursuant to
38 this section.]

39 b. [At least once every three years, each] Each water purveyor
40 shall provide to the department and the board, if applicable, [a] an
41 annual report based on its asset management plan prepared pursuant
42 to subsection a. of this section identifying the infrastructure
43 improvements to be undertaken in the [coming year] subsequent
44 three years and the cost of those improvements, as well as
45 identifying the infrastructure improvements completed in the past
46 year and the cost of those improvements. If the water purveyor is a
47 municipality, a county, or an authority subject to the "Local

1 Authorities Fiscal Control Law" (C.40A:5A-1 et seq.), the report
2 shall also identify infrastructure improvements to be undertaken
3 pursuant to the asset management plan in the remaining years of the
4 water purveyor's capital improvement plan, along with the actual or
5 estimated cost of such improvements. A municipal water
6 department or municipal water authority shall also submit the report
7 required pursuant to this subsection to the Division of Local
8 Government Services in the Department of Community Affairs.

9 c. The department, the board, and the Department of
10 Community Affairs shall create a centralized portal allowing for
11 electronic submittal of the report required pursuant to subsection b.
12 of this section. The lack of a centralized portal pursuant to this
13 subsection shall not negate the requirement for a water purveyor to
14 submit a report pursuant to subsection b. of this section.

15 d. In consultation with the Director of the Division of Local
16 Government Services in the Department of Community Affairs and
17 the board, the Commissioner of Environmental Protection shall set a
18 deadline for submission of the completed annual report; however,
19 the deadline for submission shall be no later than December 31 for
20 counties and municipalities with a calendar year budget cycle, June
21 30 for municipalities with a State fiscal year budget cycle, or, for
22 authorities subject to the "Local Authorities Fiscal Control Law,"
23 P.L.1983, c.313 (C.40A:5A-1 et seq.), 15 days prior to the deadline
24 established by the Division of Local Government Services for an
25 authority to submit its introduced annual budget. Water purveyors
26 that are municipalities, counties, or authorities subject to P.L.1983,
27 c.313 (C.40A:5A-1 et seq.) shall submit the completed annual
28 report to the Director of the Division of Local Government Services
29 concurrent with the introduced annual budget for the budget year
30 next following the date on which the report is required to be
31 completed.

32 (cf: P.L.2017, c.133, s.7)

33

34 22. (New section) Any person who violates the provisions of
35 P.L.2017, c.133 (C.58:31-1 et seq.), or any rule or regulation
36 adopted pursuant thereto, shall be subject to the penalties and other
37 remedies set forth in section 10 of P.L.1977, c.224 (C.58:12A-10).
38 No later than 18 months after the effective date of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), the
40 department shall adopt, pursuant to the "Administrative Procedure
41 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of civil
42 administrative penalties to be applied pursuant to this section for
43 specific violations of P.L.2017, c.133 (C.58:31-1 et seq.).

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45 23. Section 5 of P.L.2017, c.133 (C.58:31-5) is repealed.

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47 24. This act shall take effect immediately.

STATEMENT

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This bill would amend various public finance laws to remove existing restrictions on the ability of local governments and authorities to finance the costs of lead service line replacements. P.L.2018, c.114 authorized municipalities and affiliated public water purveyors to levy special assessments, and issue bonds, to replace certain lead-contaminated water service lines. However, the provisions of P.L.2018, c.114 apply only to service line replacement projects that are: (1) undertaken as environmental infrastructure projects, as defined under section 3 of P.L.1985, c.334 (C.58:11B-3); and (2) funded either by loans from the New Jersey Infrastructure Bank or by loans issued through the Department of Environmental Protection (DEP). This bill would remove these restrictions. The bill would also add a definition of "lead service line" in the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), which includes lead goosenecks and other connections, and service lines composed of galvanized steel. The definition would also specify that a lead service line may be owned by the supplier of water, a property owner, or both. The bill would also limit applicability of the provisions of P.L.2018, c.114 to the replacement of water service lines that connect publicly-owned water systems to residential properties.

Additionally, the bill would extend to 30 years the period of time over which a municipality may allow a property owner to pay assessments attributable to the replacement of lead service lines. Current law allows assessments to be paid over the lesser of: the period of years for which the bonds were issued, or 20 years.

The bill would supplement the "Local Budget Law," N.J.S.40A:4-1 et seq., and the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), to require local governments that supply water to their residents and water authorities to conduct a periodic study of the rates that they charge, and submit the study to the Director of the Division of Local Government Services in the Department of Community Affairs (DCA). The Local Finance Board in the DCA would be required to adopt the procedures, requirements, and frequency of the study. The bill would also authorize the Local Finance Board to hold hearings based on the study and to order the local government or authority to adjust its rates, or take such other action as the board deems appropriate to ensure the integrity of the water infrastructure operated by the local government or authority.

The bill would also amend the "Local Budget Law" to require local governments to include infrastructure improvements required under the "Water Quality Accountability Act," P.L.2017, c.133 (C.58:31-7) (WQAA) and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) in the capital budget and

1 statement of capital undertakings of the local government. If a
2 budget fails to include the improvements, the bill would authorize
3 the Director of the Division of Local Government Services to order
4 the inclusion of the improvements, along with any revenues or
5 appropriations necessary to fund them. Similarly, the bill would
6 amend the "Local Authorities Fiscal Control Law" to require water
7 authorities to include improvements required under the WQAA and
8 the "Water Pollution Control Act" in the authority's budget and
9 would authorize the Director of the Division of Local Government
10 Services to order their inclusion and a means of financing them.

11 Under the bill, whenever there is available an undesignated fund
12 balance or unreserved retained earnings held by a municipal water
13 authority that is being dissolved by a municipality, no more than
14 five percent of the annual costs of operation of the authority could
15 be appropriated by the municipality for uses not directly related to
16 drinking water management, unless the Local Finance Board
17 determines that the municipality has demonstrated a need for
18 greater than five percent based on a showing of significant fiscal
19 distress.

20 The bill would amend the "New Jersey Water Supply Public-
21 Private Contracting Act," P.L.1995, c.101 (C.58:26-19 et al.), to
22 require that any contract entered into pursuant to that law include
23 provisions addressing the allocation of responsibility for
24 compliance with the provisions of the WQAA. The bill would also
25 require the Local Finance Board to verify that a contract includes
26 the provisions, prior to giving its approval.

27 Finally, the bill would modify various requirements of the
28 WQAA. Specifically, it would modify the definition of "water
29 purveyor" in the WQAA so that most provisions of the act apply
30 only to public community water systems with more than 500 service
31 connections. The bill would make changes to the WQAA's
32 requirements regarding valve inspections, record keeping, and fire
33 hydrant identification, as enumerated in section 18 of the bill. The
34 bill would require water purveyors to conform their cybersecurity
35 programs to requirements established by the New Jersey
36 Cybersecurity and Communications Integration Cell in the New
37 Jersey Office of Homeland Security and Preparedness. In addition,
38 it would delete an existing exemption from the WQAA's
39 cybersecurity requirements for water systems that do not have
40 internet-connected control systems.

41 The bill would also repeal a provision in the WQAA that
42 required certain water purveyors who violate the "Safe Drinking
43 Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.) to submit a
44 mitigation plan to the DEP. The bill would make persons who
45 violate the WQAA subject to the same penalties as persons who
46 violate the "Safe Drinking Water Act," and would require the DEP
47 to adopt a schedule of penalties for specific violations no later than
48 18 months after the effective date of the bill.

1 The bill would require all owners of public community water
2 systems to conform to the asset management requirements of the
3 WQAA, rather than owners of public water systems with more than
4 500 service connections, as in existing law. The bill would also
5 make several changes to the asset management requirements of the
6 WQAA, as enumerated in section 21 of the bill. The changes
7 include a requirement to include in each asset management plan: (1)
8 a capital improvement plan identifying the annual cost of
9 implementing each element of the asset management plan, along
10 with the sources of funding for each element; and (2) a certification
11 of the completeness of the asset management plan. The bill would
12 also delete the requirement in the WQAA that the asset
13 management plans and system condition reports be certified to by
14 the licensed operator or professional engineer of the public water
15 system and the responsible corporate officer of the public water
16 system, if privately held, executive director, if an authority, or
17 mayor or chief executive officer of the municipality, if municipally
18 owned, as applicable.