

40:62-127 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:62 - 127 et al (Waterworks Commissions-- Bonds-permit issuance)

LAWS OF: 1989 **CHAPTER:** 145

BILL NO: S840

SPONSOR(S): Graves

Date Introduced: Pre-filed

Committee: **Assembly:** County Government and Regional Authorities
Senate: County and Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** May 15, 1989
Senate: February 2, 1989

Date of Approval: August 9, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

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Reports: No

Hearings: No

RDV

[THIRD REPRINT]

SENATE, No. 840

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator GRAVES

1 AN ACT ¹concerning certain waterworks or water commissions
and¹ ³[providing for the issuance of bonds ¹[by a waterworks
3 commission] thereby¹, amending R.S.40:62-127,
R.S.40:62-146, R.S.40:62-148, and]³ supplementing chapter 62
5 of Title 40 of the Revised Statutes.

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

9 ³[1. (New section) The Legislature finds and declares that
there is a need to authorize and empower commissions appointed
11 pursuant to R.S.40:62-109 to issue bonds and other obligations to
finance water projects as an alternative to the existing method
13 of financing these projects, whereby municipalities that created
these commissions issue their own general obligation bonds and
15 provide the proceeds thereof to the commissions.]³

³[2. R.S.40:62-127 is amended to read as follows:
17 40:62-127. Such commission may prescribe and change from
time to time rates to be charged for water supplied by the
19 waterworks so acquired, and by any extension or enlargement
thereof, but rates for the same kind or class of service shall be
21 uniform in all the municipalities supplied by the waterworks;
except that no rates shall include the imposition of any fees in
23 excess of the cost of water actually used for any sprinkler
system required to be installed in any residential health care
25 facility pursuant to the "Health Care Facilities Planning Act,"
P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated
27 thereunder or in any rooming or boarding house pursuant to the
"Rooming and Boarding House Act of 1979," P.L.1979, c.496
29 (C.55:13B-1 et al.) and regulations promulgated thereunder.
Nothing in this amendatory act shall preclude any commission
31 from charging for the actual cost of water main connection.

The supplying of water to locations beyond the boundaries of

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted March 21, 1988.

² Senate floor amendments adopted April 18, 1988.

³ Assembly ACG committee amendments adopted January 23, 1989.

1 the municipalities owning the waterworks shall be basis for
2 separate classification of service to permit reasonable
3 differentiation of rates. As soon as practicable after acquiring
4 the waterworks, rates shall be prescribed, and shall be revised
5 from time to time whenever necessary, so that the waterworks
6 shall be self-supporting, the earnings to be sufficient to provide
7 for all expenses of operation and maintenance and such charges
8 as interest, sinking fund and amortization, so as to prevent any
9 deficit to be paid by taxation from accruing. The interest,
sinking fund and amortization shall be construed to include:

11 a. All service on debt heretofore or hereafter incurred by the
12 commission or by any municipality represented by the
13 commission in connection with the acquisition of such
14 privately-owned waterworks, and any extensions thereto and
15 enlargements thereof, heretofore or hereafter formally assumed
by the commission or its successors, and

17 b. All service on debt heretofore or hereafter incurred by the
18 commission or by a municipality represented by the commission,
19 or its successors, and heretofore or hereafter formally assumed
20 by the commission, or its successors, as part of any agreement
21 with the municipality relative to the acquisition, by the
22 commission, or its successors, of the ownership of or the
23 management and control of or the right to use any water supply
24 or part thereof or interest therein or any distribution system of
25 water mains and connections, or any part thereof, which any
such municipality may own or control.

27 The provisions of this section shall be deemed a contract with
28 the holders of all obligations which shall be or may have been
29 issued for the purpose of financing such acquisitions or which
heretofore have been or may hereafter be issued to refund
31 temporary bonds or obligations issued for such purposes, the
32 payment of any of which obligations, and interest thereon, the
33 commission, or its successors, has heretofore or may hereafter
formally assume as aforesaid.

35 The commission and any succeeding commission may
36 prescribe, and alter and enforce all reasonable rules and
37 regulations for the maintenance and operation of the
waterworks and the collection of rates.

39 (cf: P.L.1981, c.514, s.3)]³

1 ³[3. (New section) For the purpose of raising funds to pay the
3 cost of any part of its waterworks, including the cost of
5 enlarging, extending or improving the same, or for the purpose
7 of funding or refunding any bonds including bonds or other
9 obligations issued by any municipality represented by the
11 commission in connection with the acquisition of waterworks,
13 and any extensions thereto and enlargements thereof, a
15 commission shall have power to authorize or provide for the
17 issuance of bonds pursuant to this 1988 amendatory and
19 supplementary act. The commission shall adopt a resolution,
21 sometimes referred to in this 1988 amendatory and
23 supplementary act as a "bond resolution," which shall:

25 a. Describe in brief and general terms sufficient for
27 reasonable identification the waterworks or part thereof,
29 sometimes referred to in this 1988 amendatory and
31 supplementary act as a "project," to be constructed, acquired,
33 enlarged, extended, or improved or describe the bonds which are
35 to be funded or refunded, if any;

37 b. State the cost or estimated cost of the project, if any; and

39 c. Provide for the issuance of the bonds in accordance with
section 4 of this 1988 amendatory and supplementary act.]³

³[4. (New section) Upon adoption of a bond resolution, the
commission shall have power to incur indebtedness, borrow
money and issue its bonds and bond anticipation notes, in this
act collectively referred to in this 1988 amendatory and
supplementary act as "bonds," for the purpose of financing the
project or of funding or refunding the bonds described therein.
The bonds shall be authorized by the bond resolution and may be
issued in one or more series and shall bear such date or dates,
mature at such time or times not exceeding 40 years from the
date thereof, bear interest at a rate or rates within such
maximum rate established therein, be in such denomination or
denominations, be in such form, either coupon or registered,
carry such conversion or registration privileges, have such rank
or priority, be executed in such manner, be payable from such
sources in such medium of payment at such place or places
within or without the State, and be subject to such terms of
redemption with or without premium, as the bond resolution may
provide.]³

1 ³[5. (New section) Bonds of the commission may be sold by
the commission at public or private sale at such price or prices
3 as the commission shall determine.]³

5 ³[6. (New section) The commission may cause a copy of any
bond resolution adopted by it to be filed for public inspection in
7 its office and in the office of clerk of the governing body of the
municipalities represented in the commission and may thereupon
cause to be published in a newspaper published or circulating in
9 the municipalities represented in the commission a notice
stating the fact and date of this adoption and the places where
11 the bond resolution has been filed for public inspection and also
the date of the first publication of the notice and also that any
13 action or proceeding of any kind or nature in any court
questioning the validity or proper authorization of bonds
15 provided for by the bond resolution, or the validity of any
covenants, agreements or contract provided for by the bond
17 resolution shall be commenced within 20 days after the first
publication of the notice. If no action or proceeding questioning
19 the validity of the creation and establishment of the
commission, or the validity or proper authorization of bonds
21 provided for by the bond resolution referred to in the notice, or
the validity of any covenants, agreements or contracts provided
23 for by the bond resolution is commenced or instituted within 20
days after the first publication of the notice, all residents and
25 taxpayers and owners of property in the municipalities and users
of the waterworks system and all other persons whatsoever shall
27 be forever barred and foreclosed from instituting or
commencing any action or proceeding in any court, or from
29 pleading any defense to any action or proceedings, questioning
the validity of the creation and establishment of the
31 commission, or the validity or proper authorization of the bonds,
or the validity of the covenants, agreements or contracts, and
33 the commission conclusively is deemed to be validly created and
established and is authorized to transact business and exercise
35 powers as a commission under this 1988 amendatory and
supplementary act, and the bonds, covenants, agreements and
37 contracts conclusively are deemed to be valid and binding
obligations in accordance with their terms and tenor.]³

39 ³[7. (New section) Any provision of law, rule or regulation to

1 the contrary notwithstanding, any bond or other obligation
issued pursuant to this 1988 amendatory and supplementary act
3 shall be fully negotiable within the meaning and for all purposes
of the State laws concerning negotiable instruments, and each
5 holder or owner of the bond or other obligation, or of any coupon
appurtenant thereto, by accepting the bond or coupon,
7 conclusively is deemed to have agreed that the bond, obligation
or coupon is fully negotiable within the meaning and for all
9 purposes of the State laws concerning negotiable instruments.]³

11 ³[8. (New section) Any bond resolution of the commission
providing for or authorizing the issuance of any bonds may
contain provisions, and the commission, in order to secure the
13 payment of these bonds and in addition to its other powers, shall
have the power, by provision in the bond resolution, to covenant
15 and agree with the several holders of these bonds, as to:

17 a. The custody, security, use, expenditure or application of
the proceeds of the bonds;

19 b. The construction and completion, acquisition, enlargement,
extension or improvement of all or any part of the waterworks;

21 c. The use, regulation, operation, maintenance, insurance or
disposition of all or any part of the waterworks, or restrictions
on the exercise of the powers of the commission to dispose, or
23 to limit or regulate the use, of all or any part of the waterworks;

25 d. Payment of the principal of or interest on the bonds, or any
other obligations, and the sources and methods thereof, the rank
or priority of the bonds or obligations as to any lien or security,
27 or the acceleration of the maturity of the bonds or obligations;

29 e. The use and disposition of any moneys of the commission,
including revenues, sometimes referred to in this 1988
amendatory and supplementary act as "water revenues," derived
31 or to be derived from the operation of all or any part of the
waterworks, including any parts thereof previously constructed
33 or acquired and any parts, enlargements, extensions,
replacements or improvements thereof subsequently constructed
35 or acquired;

37 f. Pledging, setting aside, depositing or trusteeing all or any
part of the water revenues or other moneys of the commission
to secure the payment of the principal of or interest on the
39 bonds or any other obligations or the payment of expenses of

1 operation or maintenance of the waterworks, and the powers and
duties of any trustee with regard thereto;

3 g. The setting aside out of the water revenues or other
moneys of the commission of reserves and sinking funds, and the
5 source, custody, security, regulation, application and disposition
thereof;

7 h. Determination or definition of the water revenues or of the
expenses of operation and maintenance of the waterworks;

9 i. The rents, rates or the use, products or services of the
waterworks, including any parts thereof previously constructed
11 or acquired and any parts, enlargements, extensions,
replacements or improvements thereof subsequently constructed
13 or acquired, and the fixing, establishment, collection and
enforcement of the same, the amount or amounts of water
15 revenues to be produced thereby, and the disposition and
application of the amounts charged or collected;

17 j. The assumption or payment or discharge of any
indebtedness, liens or other claims relating to any part of the
19 waterworks, or any obligations having or which may have a lien
on any part of the water revenues;

21 k. Limitations on the issuance of additional bonds or any other
obligations or on the incurrence of indebtedness of the
23 commission;

l. Vesting in a trustee or trustees within or without the State
25 the property, rights, powers and duties in trust as the
commission may determine which may include any or all rights,
27 powers and duties of the trustee appointed by the holders of
bonds pursuant to section 9 of this 1988 amendatory and
29 supplementary act, and limiting or abrogating the right of the
holders to appoint a trustee pursuant to section 9 of this 1988
31 amendatory and supplementary act or limiting the rights, duties
and powers of the trustee;

33 m. Payment of costs or expenses incident to the enforcement
of the bonds or of the provisions of the bond resolution or of any
35 covenant or contract with the holders of the bonds;

n. The procedure, if any, by which the terms of any covenant
37 or contract with, or duty to, the holders of bonds may be
amended or abrogated, the amount of bonds the holders of which
39 shall consent thereto, and the manner in which the consent may

1 be given or evidenced; or

3 o. Any other matter or course of conduct which, by recital in
the bond resolution, is declared to further secure the payment of
the principal of or interest on the bonds.

5 The provisions of the bond resolution and the covenants and
agreements constitute valid and legally binding contracts
7 between the commission and the several holders of the bonds,
regardless of the time of issuance of the bonds, and are
9 enforceable by the holder or holders of the bonds by appropriate
action, suit or proceeding in any court of competent jurisdiction,
11 or by proceeding in lieu of prerogative writ.]³

13 ³[9. (New section) a. If a default occurs in the payment of
the principal of or interest on any bonds of the series after the
bonds are due, whether at maturity or upon call for redemption,
15 and this default continues for a period of 30 days, or if the
commission fails or refuses to comply with the provisions of this
17 1988 amendatory and supplementary act or fails or refuses to
carry out and perform the terms of any contract with the
19 holders of the bonds, and this failure or refusal continues for a
period of 30 days after written notice to the commission of its
21 existence and nature, the holders of 25% in the aggregate
principal amount of the bonds and the series then outstanding by
23 instrument or instruments filed in the office of the Secretary of
State and proved or acknowledged in the same manner as a deed
25 to be recorded, may appoint a trustee to represent the holders
of the bonds of the series for the purposes provided in this
27 section. This section shall be applicable only if the bond
resolution of the commission authorizing the issuance of a series
29 of its bonds provides that the holders of the bonds of the series
are entitled to the benefits of this section.

31 b. The trustee may, and upon written request of the holders of
25% in aggregate principal amount of the bonds of the series
33 then outstanding shall, in his or its own name:

35 (1) By any action, writ, proceeding in lieu of prerogative writ,
or other proceeding, enforce all rights of the holders of the
bonds, including the right to require the commission to charge
37 and collect water rents adequate to carry out any contract as
to, or pledge of, water revenues, and to require the commission
39 to carry out and perform the terms of any contract with the

1 holders of the bonds or its duties under this 1988 amendatory
and supplementary act;

3 (2) Bring an action upon all or any part of the bonds or
interest coupons or claims appurtenant thereto;

5 (3) By action, require the commission to account as if it were
the trustee of an express trust for the holders of the bonds;

7 (4) By action, enjoin any acts or things which may be unlawful
or in violation of the rights of the holders of the bonds; or

9 (5) Declare the bonds due and payable, whether or not in
advance of maturity, upon 30 days' prior notice in writing to the
11 commission and, if all defaults are satisfied, with the consent of
the holders of 25% of the principal amount of the bonds then
13 outstanding, annul the declaration and its consequences.

c. The trustee shall have and possess all of the powers
15 necessary or appropriate for the exercise of the functions
specifically set forth herein or incident to the general
17 representation of the holders of the bonds of the series in the
enforcement and protection of their rights.

19 d. In any action or proceeding by the trustee, the fees, counsel
fees and expenses of the trustee and of the receiver, if any,
21 appointed pursuant to this 1988 amendatory and supplementary
act, shall constitute taxable costs and disbursements, and all
23 costs and disbursements, allowed by the court, shall be a first
charge upon any water rents and water revenues of the
25 commission pledged for the payment or security of bonds of the
series.]³

27 ³[10. (New section) If the bond resolution of a commission
authorizing for the issuance of a series of its bonds provides that
29 the holders of the bonds of the series are entitled to the benefits
of section 9 of this 1988 amendatory and supplementary act and
31 further provides that any trustee appointed pursuant to that
section, or having the powers of the trustee, has the powers
33 provided by this section, the trustee, whether or not all of the
bonds of the series are declared due and payable, is entitled as
35 of right to the appointment of a receiver of the waterworks, and
the receiver may enter upon and take possession of the
37 waterworks and, subject to any pledge or contract with the
holders of the bonds, shall take possession of all moneys and
39 other property derived from or applicable to the acquisition,

1 construction, operation, maintenance or reconstruction of the
waterworks and proceed with the acquisition, construction,
3 operation, maintenance or reconstruction which the commission
is under any obligation to do, and operate, maintain and
5 reconstruct the waterworks and fix, charge, collect, enforce and
receive the water rents and all water revenues thereafter
7 arising subject to any pledge thereof or contract with the
holders of the bonds relating thereto and perform the public
9 duties and carry out the contracts and obligations of the
commission in the same manner as the commission itself might
11 do and under the direction of the court.]³

³[11. (New section) Neither the members of the commission
13 nor any person executing the bonds issued pursuant to this 1988
amendatory and supplementary act shall be liable personally on
15 the bonds by reason of the issuance thereof. Bonds or other
obligations issued by the commission pursuant to this 1988
17 amendatory and supplementary act shall not be in any way a
debt or liability of the State or of any local unit or of any
19 county or municipality and shall not create or constitute any
indebtedness, liability or obligation of the State or of any local
21 unit, county or municipality, either legal, moral or otherwise,
and nothing contained in this 1988 amendatory and
23 supplementary act shall be construed to authorize the
commission to incur any indebtedness on behalf of or in any way
25 to obligate the State or any county or municipality.]³

³[12. R.S.40:62-146 is amended to read as follows:

27 40:62-146. The commission may contract with any
municipality or municipalities to furnish a supply of water for
29 such other municipalities and their inhabitants, for public and
private uses, for the term of a year or years. There shall first
31 be obtained the approval of the state board or department
having jurisdiction of such matters, which approval and consent
33 such commission or other board or departments may withhold or
grant upon such terms as it may deem proper, but in case
35 approval and consent are withheld, the reason for such
withholding shall be furnished by the department or board to the
37 commission applying therefor. The contract may provide for the
payment to the commission by the municipality annually or
39 otherwise of the sum or sums of money, computed at fixed

1 amounts or by a formula based on any factors or other matters
2 described in R.S.40:62-127 or in any other manner, as the
3 contract or contracts may provide, and may provide that the
4 sum or sums so payable to the commission shall be in lieu of all
5 or any part of the water rents which would otherwise be charged
6 and collected by the commission with regard to the dwellers
7 within the municipality. The contract may be made with or
8 without consideration and for a specified or an unlimited time
9 and on any terms and conditions which may be approved by the
10 municipality and which may be agreed to by the commission in
11 conformity with its contract with the holders of any bonds, and
12 shall be valid whether or not an appropriation with respect
13 thereto is made by the municipality prior to authorization or
14 execution thereof. The municipality is authorized to perform
15 any acts necessary, convenient or desirable to carry out the
16 contract and to provide for the payment or discharge of any
17 obligation thereunder in the same manner as are other
18 obligations of the municipality. Subject to these contracts with
19 the holders of bonds, the commission is authorized to perform
20 any acts necessary, convenient or desirable to carry out the
21 contract and, to provide for the payment or discharge of any
22 obligation thereunder in the same manner as are other
23 obligations of the municipality. Subject to these contracts with
24 the holders of bonds, the commission is authorized to perform
25 any acts necessary, convenient or desirable to carry out the
26 contract and, in accordance with the contract, to waive, modify,
27 suspend or reduce the water rents which would otherwise be
28 charged and collected by the commission with regard to the
29 dwellers within the municipality, but nothing in this section or
30 the contract shall prevent the commission from charging and
31 collecting, as if the contract had not been made, water rents
32 with regard to the dwellings sufficient to meet any default or
33 deficiency in any payments agreed in the contract to be made by
34 the municipality.

35 (cf: R.S.40:62-146)]³

36 ³[13. (New section) All property of a commission shall be
37 exempt from levy and sale by virtue of an execution and no
38 execution or other judicial process shall issue against the same
39 nor shall any judgment against a commission be a charge or lien

1 upon its property; except that nothing herein contained shall
2 apply to or limit the rights of the holder of any bonds to pursue
3 any remedy for the enforcement of any pledge or lien given by a
4 commission on its waterworks, water revenues or other
5 moneys.]³

6 ³[14. (New section) Notwithstanding any restriction contained
7 in any other law, rule or regulation, the State and all public
8 officers, municipalities, counties, political subdivisions and
9 public bodies, and agencies thereof, all banks, bankers, trust
10 companies, savings banks and institutions, building and loan
11 associations, savings and loan associations, investment
12 companies, and other persons carrying on a banking business, all
13 insurance companies, insurance associations and other persons
14 carrying on an insurance business, and all executors,
15 administrators, guardians, trustees and other fiduciaries, may
16 legally invest any sinking funds, moneys or other funds belonging
17 to them or within their control in any bonds of the commission,
18 and the bonds shall be authorized security for any and all public
19 deposits.]³

20 ³[15. (New section) Every waterworks and all other property
21 of a commission are declared to be public property of a political
22 subdivision of the State and devoted to an essential public and
23 governmental function and purpose and, other than lands subject
24 to assessment and taxation pursuant to R.S.54:4-3.3, shall be
25 exempt from all taxes and special assessments of the State or
26 any subdivision thereof. All bonds are declared to be issued by a
27 political subdivision of this State and for an essential public and
28 governmental purpose and to be a public instrumentality and the
29 bonds, and the interest thereon and the income therefrom, and
30 all service charges, funds, revenues and other moneys pledged or
31 available to pay or secure the payment of the bonds, or interest
32 thereon, shall at all times be exempt from taxation except for
33 transfer, inheritance and estate taxes and taxes on transfers by
34 or in contemplation of death.]³

35 ³[16. (New section) The State of New Jersey does hereby
36 pledges to and covenants and agrees with the holders of any
37 bonds issued pursuant to a bond resolution of the commission
38 that the State shall not limit or alter the rights vested in the
39 commission to acquire, construct, enlarge, extend, improve,

1 maintain, reconstruct and operate its waterworks, and to fix
2 establish, charge and collect its water rates and to fulfill the
3 terms of any agreement made with the holders of the bonds or
4 other obligations, and shall not in any way impair the rights or
5 remedies of the holders, and shall not modify in any way the
6 exemptions from taxation provided for in this 1988 amendatory
7 and supplementary act, until the bonds, together with interest
8 thereon, with interest on any unpaid installments of interest,
9 and all costs and expenses in connection with any action or
10 proceeding by or on behalf of the holders are fully met and
11 discharged.]³

12 ³[17. (New section) All banks, bankers, trust companies,
13 savings banks, investment companies and other persons carrying
14 on a banking business are authorized to give to any commission a
15 good and sufficient undertaking with such sureties as shall be
16 approved by the commission to the effect that the bank or
17 banking institution as described herein shall faithfully keep and
18 pay over to the order of or upon the warrant of the commission
19 or its authorized agent all such funds as may be deposited with
20 it by the commission and agreed interest thereon, at such times
21 or upon these demands as may be agreed with the commission or
22 in lieu of these sureties, deposit with the commission or its
23 authorized agent or any trustee therefor or for the holders of
24 any bonds, as collateral, these securities as the commission may
25 approve. The deposits of the commission may be evidenced by a
26 depository collateral agreement in the form and upon such terms
27 and conditions as may be agreed upon by the commission and the
28 bank or banking institution.]³

29 ³[18. (New section) The commission shall file a copy of each
30 bond resolution adopted by it with the Director of the Division
31 of Local Government Services in the Department of Community
32 Affairs, together with a summary of the dates, amounts,
33 maturities and interest rates of all bonds issued pursuant
34 thereto.]³

35 ³[19. R.S.40:62-148 is amended to read as follows:

36 40:62-148. [The] Subject to any contracts with the holders of
37 bonds, the commission may adopt all ordinances and resolutions,
38 enter into all agreements and contracts, and do any and all other
39 acts and things necessary to provide water for the public and

1 private uses of its customers in accordance with the provisions
of [sections] R.S.40:62-133 to R.S.40:62-150 of this title.

3 (cf: R.S.40:62-148)³

5 ³[120. (New section)] 1.³ In any county of the second class
7 with a population of at least 440,000, but not more than 450,000,
9 according to the 1980 federal decennial census, in which at least
11 three municipalities, two of which each have populations of
13 50,000 or more, but less than 100,000, and one of which has a
15 population of 100,000 or more according to the 1980 federal
17 decennial census, have joined together to create, under
19 R.S.40:62-109, or elect or appoint under R.S.40:62-129, a
21 waterworks or water commission, the provisions of this section
23 shall control the number and method of appointment of the
25 waterworks or water commission members, their terms of office
27 and their salaries, notwithstanding the provisions of
29 R.S.40:62-108 et seq. to the contrary. Any agreements entered
31 into pursuant to R.S.40:62-129 shall be amended to conform
33 with the provisions of this section.

19 a. The commission shall consist of seven members. A
21 municipality with a population of 100,000 or more shall have
23 three members on the commission and a municipality with a
25 population of 50,000 or more, but less than 100,000, shall have
27 two members on the commission. Members shall be appointed
29 by the mayor in any municipality organized under P.L.1950,
31 c.210 (C.40:69A-1 et seq.) and by the governing body, by a
33 majority vote, in any municipality organized under R.S.40:79-1
35 et seq. A member of the commission shall ²[not]² be required to
reside in the appointing municipality ²at the time of
appointment; however, if the commission member moves outside
the appointing municipality during the member's term of office,
the member may continue to serve on the commission to the end
of the member's term². A mayor, a manager or a member of
the governing body of the appointing municipality may serve as
a member of the commission unless this service is prohibited by
the conflict of interest laws of this State.

37 b. Each commission member shall be appointed for a
39 four-year term. All additional members who may be appointed
to a commission under this section shall be appointed before
January 1, 1989, and their first term shall expire not later than

1 December 31, 1992. All terms of office of commission members
2 already appointed and serving on the effective date of this
3 amendatory and supplementary act shall not be affected by the
4 provisions of this act.

5 c. The salaries of the ²president and the² members of the
6 commission shall be ²[as follows: The president shall receive a
7 salary at the rate of \$8,500.00 annually as compensation for
8 service on the commission; and any other member of the
9 commission shall receive a salary at the rate of \$7,500.00
10 annually as compensation for service on the commission.]¹ ³[the
11 same as the salaries for the chairman and the commissioners of
12 the North Jersey district water supply commission under
13 R.S.58:5-4.²] as follows: The president shall receive a salary at
14 the rate of \$8,500.00 annually as compensation for service on
15 the commission; and any other member of the commission shall
16 receive a salary at the rate of \$7,500.00 annually as
17 compensation for service on the commission.³

18 ¹[20.] ³[^{21.1}] ².³ This act shall take effect immediately.

19

21

AUTHORITIES AND REGIONAL COMMISSIONS

Water Supply

23

24 Increases membership of Passaic Valley Water Commission, sets
25 forth terms of membership, and sets salaries of members of the
commission.

ASSEMBLY COUNTY GOVERNMENT AND REGIONAL
AUTHORITIES COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 840

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 1989

The Assembly County Government and Regional Authorities Committee reports Senate Bill No. 840 (2R) favorably, with committee amendments.

As amended by the committee, Senate Bill No. 840 increases the membership of the Passaic Valley Water Commission to seven members: three members shall be appointed by Paterson and two each shall be appointed by Passaic and Clifton. In those municipalities organized under the "Optional Municipal Charter Law" (Paterson and Passaic) appointments are to be made by the mayor and in that municipality governed by a council-manager form of government (Clifton), appointments are to be made by a majority vote of the governing body. At present, Paterson has two representatives on the commission and Passaic and Clifton have one representative each.

The bill also provides that a member of the commission is required to reside in the appointing municipality at the time of his appointment; however, should the member move out of the municipality during his term of office, he may continue to serve on the commission until the end of his term. An elected official may serve as a member of the commission unless otherwise prohibited under State conflict of interest laws. The membership term is to be four years and the initial terms of the additional members to be appointed under this bill are to be staggered. Currently, members must reside in the municipality which appoints them. The law does not address the issue of whether elected officials may serve on the commission.

Finally, the bill specifies the salaries of the Passaic Valley Water commissioners. The president would receive an annual salary of \$8,500, whereas other members shall receive \$7,500 per annum. These salaries are comparable to those of the North Jersey Water Supply commissioners. The committee amended the bill to include specific salaries and to remove reference to the North Jersey Water

Supply commissioners. Under current law, members of the commission are compensated under agreement with municipalities having at least two-thirds of the population of all of the municipalities making the application for their appointment to the commission.

Prior to its amendment by the committee, the bill also empowered waterworks commissions which are owned by two or more municipalities to issue bonds, and set forth the procedure by which such bonds could be issued.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 840

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 21, 1988

The Senate County and Municipal Government Committee reports favorably and with Committee amendments Senate Bill 840.

Senate Bill 840, as amended by the Committee, empowers waterworks commissions owned by two or more municipalities to issue bonds. Under current law, such commissions must request the municipalities which own the waterworks to issue bonds on the commission's behalf. The commission, however, is the fiscal agent of all municipalities represented by the commission with regard to the payment of principal and interest to bondholders under R.S. 40:62-122.

The Committee amended the bill to increase the membership of the Passaic Valley Water Commission to seven members: three members shall be appointed by Paterson and two each shall be appointed by Passaic and Clifton. In those municipalities organized under the "Optional Municipal Charter Law" (Paterson and Passaic) appointments are to be made by the mayor and in that municipality governed by a council-manager form of government (Clifton), appointments are to be made by a majority vote of the governing body.

At present, Paterson has two representatives on the commission and Passaic and Clifton have one representative each. Under current law, municipalities which constitute a water commission make application to the commission for appointment of members under R.S. 40:62-110.

The Committee also amended the bill to provide that a member of the commission is not required to reside in the appointing municipality and an elected official may serve as a member of the commission unless otherwise prohibited under State conflict of interest laws. The membership term is to be four years and the initial terms of the additional members to be appointed under this bill are to be staggered. Currently, members must reside in the municipality which appoints them. The law does not address the issue of whether elected officials may serve on the commission.

Finally, the Committee amendments make the salaries of the Passaic Valley Water commissioners comparable to those of the North Jersey District Water Supply commissioners. The president would receive an annual salary of \$8,500, whereas other members shall receive \$7,500 per annum. Under current law, members of the commission are compensated under agreement with municipalities having at least two-thirds of the population of all of the municipalities making the application for their appointment to the commission.