

ASSEMBLY, No. 116

STATE OF NEW JERSEY

INTRODUCED JANUARY 19, 1953

By Mr. SAIBER

Referred to Committee on Municipalities

AN Act concerning the Passaic Valley Sewerage Commissioners and the sanitation facilities constructed or to be constructed by it, providing for the issuance of bonds and other obligations for financing such facilities, and prescribing powers and duties of said commissioners and of municipalities with respect thereto, and supplementing chapter fourteen of Title 58 of the Revised Statutes.

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

1     1. It has been ascertained by the Legislature of the State of New Jersey  
2 and is hereby declared: (a) that there is imperative need for repair, replace-  
3 ment and improvement of the sewerage system (hereinafter defined)  
4 operated by the commissioners (hereinafter defined), including particularly  
5 immediate enlargement and betterment of the sewage treatment and dis-  
6 posal works thereof and also in due time replacement and enlargement of  
7 the existing sewage intercepting and collecting facilities thereof; (b) that  
8 the existence of such need threatens the waters of the Passaic river with  
9 pollution, and failure or delay in meeting such need will jeopardize the  
10 health, safety and welfare of residents of the State and impair property and  
11 other economic values and, by reason of discharge of effluent from the  
12 sewerage system in waters of New York bay, will harm the relations of the  
13 State with other States and with public health agencies; (c) that such need

14 arises principally from the long, continuous and heavy use made and being  
 15 made of the sewerage system since its operation began in one thousand  
 16 nine hundred and twenty-four, the impracticability during such use of mak-  
 17 ing on an annual or any other periodic basis the alterations and improve-  
 18 ments required in order to provide for the increase of population and the  
 19 rise in acceptable standards for sewage treatment and disposal, and the  
 20 damage, wear and tear, depreciation and obsolescence incident to such use;  
 21 (d) that the expense of meeting such need and providing such repair,  
 22 replacement and improvement, together with any amortization or interest  
 23 charges in connection with such expense, is in substance and effect part of  
 24 the cost of maintenance, repair and operation of the sewerage system;  
 25 (e) that the provisions of the statutes and of contracts made or to be made  
 26 pursuant thereto whereby the contracting municipalities (hereinafter defined)  
 27 or the commissioners could raise funds to meet such expense in the amounts  
 28 required are not sufficiently flexible and are impracticable, and application  
 29 thereof would result in oppressive or inequitable taxation to meet such  
 30 expense; and (f) that it is necessary, as in this act provided, to afford a  
 31 practical means of relief in the premises and to permit and require the con-  
 32 tracting municipalities as users of the sewerage system to meet and pay the  
 33 expense of meeting such need on an economical and reasonable basis over a  
 34 reasonable number of years.

1     2. As used in this act, unless a different meaning clearly appears from  
 2 the context:

3     (a) "Original act" shall mean chapter fourteen of Title 58 of the Re-  
 4 vised Statutes (section 58:14-1, et seq.) and the acts continued thereby and  
 5 the acts heretofore adopted amendatory thereof or supplemental thereto;

6     (b) "Commissioners" shall mean the Passaic Valley Sewerage Com-  
 7 missioners, the body politic and corporate of the State of New Jersey ap-  
 8 pointed, organized, created and existing pursuant to the original act;

9     (c) "Sewerage system" shall mean the Passaic Valley intercepting

10 sewer together with its branches and appurtenances and all plants, struc-  
11 tures and other real and tangible personal property acquired, constructed  
12 or operated by the commissioners and such other plants, structures and other  
13 real and tangible personal property as may be acquired or constructed by the  
14 commissioners pursuant to this act;

15 (d) "Municipality" shall mean any city of any class, any borough,  
16 village, town, township, or any other municipality other than a county or a  
17 school district;

18 (e) "Contracting municipality" shall mean any municipality entitled to  
19 rights in and use of the sewerage system by virtue of contributions hereto-  
20 fore made by it to the commissioners toward the costs of construction of the  
21 sewerage system pursuant to the provisions of the original act and any con-  
22 tract heretofore made between the commissioners and one or more munici-  
23 palities with respect to such construction and contributions;

24 (f) "Governing body" shall mean the commission, council, board or  
25 body, by whatever name it may be known, having charge of the finances of a  
26 municipality;

27 (g) "Project" shall mean any or all sewers, conduits, pipelines, mains,  
28 pumping and ventilating stations, sewage treatment or disposal systems,  
29 plants or works, connections and outfalls, located southerly and easterly of the  
30 intersection in the city of Newark, New Jersey, of Wilson avenue and Avenue  
31 P and deemed by the commissioners to be necessary or desirable as part of  
32 the sewerage system, including alterations, additions and modifications  
33 thereto and equipment or appurtenances thereof and any real or tangible  
34 personal property necessary or desirable for the construction or operation  
35 thereof;

36 (h) "Bonds" shall mean bonds or other obligations of the commission-  
37 ers issued pursuant to this act; and

38 (i) "System revenues" shall mean the moneys paid or required to be  
39 paid by any contracting municipality to the commissioners on account of the

40 cost of maintenance, repair and operation of the sewerage system under the  
41 provisions of the original act or any contract heretofore made in accord-  
42 ance therewith between the commissioners and one or more municipalities or  
43 under the provisions of this act.

1 3. The commissioners shall have full powers and lawful authority, in  
2 addition to all powers granted by the original act, to own, maintain, repair,  
3 reconstruct, operate and use the sewerage system and, to that end, to ac-  
4 quire, by purchase, gift, condemnation or otherwise, and, notwithstanding the  
5 provisions of any charter, ordinance or resolution of any county or munici-  
6 pality to the contrary, to construct, maintain, repair, reconstruct, operate  
7 and use all such plants, structures, equipment and facilities, and other real  
8 and personal property, as shall in the judgment of the commissioners con-  
9 stitute a project.

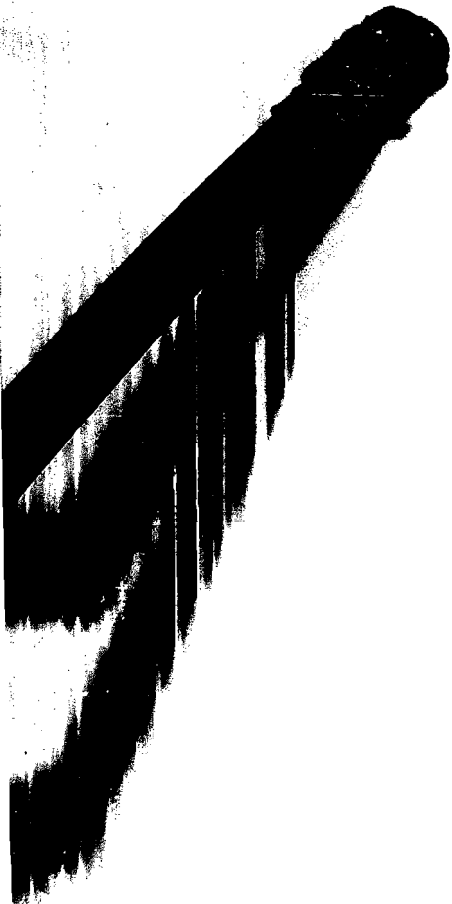
1 4. The commissioners shall be or continue to be a public body politic  
2 and corporate established as an instrumentality exercising public and essen-  
3 tial governmental functions to provide for the public health and welfare  
4 and shall have the following powers in addition to any or all powers granted  
5 to it by the original act:

6 (a) In its own name and on its own behalf, to acquire, hold, use and dis-  
7 pose of its system revenues and other moneys;

8 (b) To provide for and secure the payment of any bonds and the rights  
9 of the holders thereof, and to purchase, hold and dispose of any bonds;

10 (c) To accept gifts or grants of real or personal property, money, ma-  
11 terial, labor or supplies, and to make and perform such agreements and con-  
12 tracts as may be necessary or convenient in connection with the procuring  
13 acceptance or disposition of such gifts or grants;

14 (d) To make and enforce by-laws or rules and regulations for the man-  
15 agement and regulation of its business and affairs and for the use, mainte-  
16 nance and operation of the sewerage system and any other of its properties  
17 and to amend the same;



18 (e) To do and perform any acts and things authorized by this act un-  
19 der, through or by means of its own officers, agents and employees, or by  
20 contracts with any persons; and

21 (f) To enter into any and all contracts, execute any and all instruments,  
22 and do and perform any and all acts or things necessary, convenient or de-  
23 sirable to carry out any power expressly given in this act.

1 5. (a) For the purpose of raising funds to pay the cost of any project,  
2 the commissioners shall have power to authorize and provide for the issu-  
3 ance of its bonds pursuant to this act in an aggregate principal amount not  
4 exceeding ten million dollars (\$10,000.00). Such bonds shall be authorized  
5 by and be issued pursuant to a resolution (in this act sometimes referred  
6 to as "bond resolution") of the commissioners which shall (1) describe the  
7 project in brief and general terms sufficient for reasonable identification,  
8 and (2) state the amount of bonds authorized thereby. There shall be in-  
9 cluded in such cost of the project such amounts as the commissioners shall  
10 deem necessary or advisable to provide for interest or discount on bonds,  
11 cost of issuance of bonds, engineering and inspection costs and legal ex-  
12 penses, cost of financial, professional and other estimates and advice, and  
13 all such other expenses as may be necessary and incident to the financing,  
14 acquisition, construction and completion of the project and the placing of  
15 the same in operation, and also such provision or reserves for working cap-  
16 ital, operating, maintenance or replacement expenses or for payment or se-  
17 curity of principal of or interest on bonds during or after such acquisition  
18 or construction as the commissioners may determine to be necessary or ad-  
19 visable.

20 (b) After adoption of a bond resolution, the commissioners shall (1)  
21 cause copy thereof, certified by its secretary, to be mailed to the governing  
22 body of each contracting municipality; (2) cause notice of the date, time  
23 and place of the hearing hereinafter mentioned to be published at least once  
24 in a newspaper of general circulation published in the city of Newark, New  
25 Jersey; and (3) not sooner than fifteen days after such publication or thirty

26 days after such mailing, hold a public hearing in the Passaic Valley Sewer-  
27 age District on said bond resolution at which any contracting municipality  
28 may appear in person or by agent or attorney and be heard with respect  
29 thereto. Said bond resolution shall take effect on the thirtieth day after the  
30 conclusion of such public hearing unless prior to such thirtieth day the gov-  
31 erning bodies of contracting municipalities shall have caused to be filed with  
32 the secretary of the commissioners copies, certified by their respective  
33 clerks, of resolutions adopted by such governing bodies respectively object-  
34 ing to said bond resolution and it shall appear that the contracting munic-  
35 ipalities on behalf of which such objecting resolutions were adopted paid  
36 twenty-five per centum (25%) or more of the total amount of moneys re-  
37 ceived by the commissioners from contracting municipalities during the cal-  
38 endar year ending on the last day of December next preceding the date of  
39 such public hearing.

40 (c) Upon the taking effect of a bond resolution, the commissioners shall  
41 have power to incur indebtedness, borrow money and issue its bonds for the  
42 purpose or respective purposes described therein. Such bonds shall be au-  
43 thorized by the bond resolution and may be issued in one or more series and  
44 shall bear such date or dates, mature at such time or times not exceeding  
45 forty years from the date thereof, bear interest at such rate or rates not ex-  
46 ceeding six per centum (6%) per annum, be in such denomination or de-  
47 nominations, be in such form, either coupon or registered, carry such con-  
48 version or registration privileges, have such rank or priority, be executed  
49 in such manner, be payable from such sources in such medium of payment  
50 at such place or places within or without the State, and be subject to such  
51 terms of redemption (with or without premium) as the bond resolution may  
52 provide.

53 (d) After the taking effect of a bond resolution but prior to the issuance  
54 of the bonds authorized thereby, the commissioners may amend such bond  
55 resolution in any particular except as to the matters required by paragraph  
56 (a) of this section to be described or stated therein.

57 (e) Bonds of the commissioners may be sold by the commissioners at  
58 public or private sale at such price or prices as the commissioners shall  
59 determine; *provided, however*, that the interest cost to maturity of the  
60 money received for any issue of bonds (computed according to standard  
61 tables of bond values) shall not exceed six per centum (6%) per annum.

1 6. After the taking effect of a bond resolution, the commissioners may  
2 cause to be published in a newspaper of general circulation published in the  
3 city of Newark, New Jersey, the title of said bond resolution together with a  
4 notice stating the date of its adoption and also the date of the first publica-  
5 tion of such notice and also that any action or proceeding of any kind or  
6 nature in any court questioning the validity of the creation and establish-  
7 ment of the commissioners, or the validity or proper authorization of the  
8 bonds provided for by said bond resolution, or the validity of this act or of  
9 any obligations, covenants, agreements or contracts provided for by this act  
10 or said bond resolution shall be commenced within twenty days after the  
11 first publication of such notice. If no such action or proceeding shall be com-  
12 menced or instituted within twenty days after the first publication of such  
13 notice, then all contracting municipalities and residents and taxpayers and  
14 owners of property therein and all other persons whatsoever shall be forever  
15 barred and foreclosed from instituting or commencing any action or proceed-  
16 ing in any court, and from pleading in any action or proceeding any de-  
17 fense, questioning the validity of the creation and establishment of the com-  
18 missioners, the validity or proper authorization of such bonds, or the validity  
19 of this act or of any such obligations, covenants, agreements or contracts,  
20 and all such bonds, obligations, covenants, agreements and contracts shall be  
21 conclusively deemed to be valid and binding obligations in accordance with  
22 their terms and tenor.

1 7. After sale of any bonds pursuant to this act, the commissioners shall  
2 have power to authorize the execution and issuance to the purchasers, pend-  
3 ing the preparation of the definitive bonds, of interim certificates therefor

4 or of temporary bonds or other temporary instruments exchangeable for the  
5 definitive bonds when prepared, executed and ready for delivery. The  
6 holders of such interim certificates, temporary bonds or other temporary in-  
7 struments shall have all the rights and remedies which they would have as  
8 holders of the definitive bonds.

1 8. Any provision of any law to the contrary notwithstanding, any bond  
2 or other obligation issued pursuant to this act shall be fully negotiable  
3 within the meaning and for all purposes of the negotiable instruments law  
4 of the State, and each holder or owner of such a bond or other obligation, or  
5 of any coupon appurtenant thereto, by accepting such bond or coupon shall be  
6 conclusively deemed to have agreed that such bond, obligation or coupon is  
7 and shall be fully negotiable within the meaning and for all purposes of said  
8 negotiable instruments law.

1 9. Any bond resolution of the commissioners providing for or authoriz-  
2 ing the issuance of any bonds may contain provisions, and the commission-  
3 ers, in order to secure the payment of such bonds and in addition to its other  
4 powers, shall have power by provision in the bond resolution to covenant and  
5 agree with the several holders of such bonds, as to:

6 (1) the custody, security, use, expenditure or application of the proceeds  
7 of the bonds;

8 (2) the construction and completion, or replacement, of all or any part  
9 of the sewerage system, including the project described therein;

10 (3) the use, regulation, operation, maintenance, insurance or disposition  
11 of all or any part of the sewerage system, or restrictions on the exercise of  
12 the powers of the commissioners to dispose, or to limit or regulate the use, of  
13 all or any part of the sewerage system;

14 (4) payment of the principal of or interest on the bonds, or any other ob-  
15 ligations, and the sources and methods thereof, the rank or priority of any  
16 such bonds or obligations as to any lien or security, or the acceleration of the  
17 maturity of any such bonds or obligations;

18 (5) the use and disposition of any moneys of the commissioners, includ-  
19 ing system revenues and any other moneys derived or to be derived from or  
20 in connection with the ownership or operation of all or any part of the  
21 sewerage system, including any parts thereof theretofore constructed or ac-  
22 quired and any parts, extensions, replacements or improvements thereof  
23 thereafter constructed or acquired;

24 (6) pledging, setting aside, depositing or trusteeing all or any part of  
25 the system revenues or other moneys or any contracts of the commissioners  
26 to secure the payment of the principal of or interest on the bonds or any other  
27 obligations, or the payment of expenses of operation or maintenance of the  
28 sewerage system, and the powers and duties of any trustee with regard  
29 thereto;

30 (7) the setting aside out of the system revenues or other moneys of the  
31 commissioners of reserves and sinking funds, and the source, custody,  
32 security, regulation, application and disposition thereof;

33 (8) computation, establishment, determination or definition of system  
34 revenues or of costs of maintenance, repair and operation of the sewerage  
35 system, or of any part thereof;

36 (9) system revenues and the rents, rates, fees, or other charges for con-  
37 nection with or the use or services of the sewerage system, including any  
38 parts thereof theretofore constructed or acquired and any parts, extensions,  
39 replacements or improvements thereof thereafter constructed or acquired,  
40 and the fixing, establishment, collection and enforcement of the same, the  
41 amount or amounts of system revenues to be produced thereby, and the dis-  
42 position and application of system revenues and the amounts charged or col-  
43 lected;

44 (10) the assumption or payment or discharge of any indebtedness, liens  
45 or other claims relating to any part of the sewerage system or any obliga-  
46 tions having or which may have a lien on any part of the system revenues;

47 (11) limitations on the issuance of additional bonds or any other obli-  
48 gations or on the incurrence of indebtedness of the commissioners;

49 (12) limitations on the powers of the commissioners to construct, acquire  
50 or operate, or permit the construction, acquisition or operation of, any plants,  
51 structures, facilities or properties which may compete or tend to compete with  
52 the sewerage system;

53 (13) vesting in a trustee or trustees such property, rights, powers and  
54 duties in trust as the commissioners may determine which may include any  
55 or all of the rights, powers and duties of the trustee appointed by the  
56 holders of bonds pursuant to section ten of this act, and limiting or abro-  
57 gating the right of such holders to appoint a trustee pursuant to section ten  
58 of this act or limiting the rights, duties and powers of such trustee;

59 (14) payment of costs or expenses incident to the enforcement of the  
60 bonds or of the provisions of the bond resolution or of any covenant or con-  
61 tract with the holders of the bonds;

62 (15) the procedure, if any, by which the terms of any covenant or con-  
63 tract with, or duty to, the holders of bonds may be amended or abrogated,  
64 the amount of bonds the holders of which must consent thereto, and the man-  
65 ner in which such consent may be given or evidenced; or

66 (16) any other matter or course of conduct which, by recital in the bond  
67 resolution, is declared to further secure the payment of the principal of or  
68 interest on the bonds.

69 All such provisions of the bond resolution and all such covenants and  
70 agreements shall constitute valid and legally binding contracts between the  
71 commissioners and the several holders of the bonds, regardless of the time  
72 of issuance of such bonds, and shall be enforceable by any such holder or  
73 holders by mandamus or other appropriate action, suit or proceeding at  
74 law or in equity in any court of competent jurisdiction.

1 10. (a) The provisions of this section shall be applicable to a series of  
2 bonds authorized or issued under this act only if the bond resolution of the  
3 commissioners authorizing or providing for the issuance of such bonds, or an  
4 amendment thereof, shall provide in substance that the holders of the bonds  
5 of such series shall be entitled to the benefits, and be subject to the provi-  
6 sions of this section.

7 (b) In the event that there shall be a default in the payment of principal  
8 of or interest on any bonds of such series after the same shall become due,  
9 whether at maturity or upon call for redemption, and such default shall  
10 continue for a period of thirty days, or in the event that the commissioners  
11 shall fail or refuse to comply with the provisions of this act or shall fail or  
12 refuse to carry out and perform the terms of any contract with the holders  
13 of any of such bonds, and such failure or refusal shall continue for a  
14 period of ninety days after written notice to the commissioners of its  
15 existence and nature, the holders of twenty-five per centum (25%) in aggregate  
16 principal amount of the bonds of such series then outstanding by instrument  
17 or instruments filed in the office of the Secretary of State and proved  
18 or acknowledged in the same manner as a deed to be recorded, may appoint  
19 a trustee to represent the holders of the bonds of such series for the  
20 purposes provided in this section.

21 (c) Such trustee may and upon written request of the holders of twenty-  
22 five per centum (25%) in aggregate principal amount of the bonds of such  
23 series then outstanding shall, in his or its own name:

24 (1) By action, suit or proceeding in the nature of mandamus, injunction,  
25 certiorari or otherwise, enforce all rights of the holders of  
26 such bonds, including the right to require the commissioners to charge  
27 and collect system revenues and other charges adequate to carry out  
28 any contract as to, or pledge of, such moneys, and to require the commissioners  
29 to carry out and perform the terms of any contract with the  
30 holders of such bonds or its duties under this act;

31 (2) Bring action upon all or any part of such bonds or interest  
32 coupons or claims appurtenant thereto;

33 (3) By action, suit or other proceeding, as if in equity, require the  
34 commissioners to account as if it were the trustee of an express trust for  
35 the holders of such bonds;

36 (4) By action, suit or other proceeding, as if in equity, enjoin any  
37 acts or things which may be unlawful or in violation of the rights of the  
38 holders of such bonds; or

39 (5) Declare all such bonds due and payable, whether or not in  
40 advance of maturity, upon thirty days' prior notice in writing to the  
41 commissioners and, if all defaults shall be made good, then with the  
42 consent of the holders of twenty-five per centum (25%) of the principal  
43 amount of such bonds then outstanding, annul such declaration and its  
44 consequences.

45 (d) Such trustee shall, in addition to the foregoing, have and possess  
46 all of the powers necessary or appropriate for the exercise of the functions  
47 specifically set forth herein or incident to the general representation of the  
48 holders of bonds of such series in the enforcement and protection of their  
49 rights.

50 (e) In any action, suit or other proceeding by such trustee, the fees,  
51 counsel fees and expenses of the trustee shall constitute taxable costs and  
52 disbursements, and all costs and disbursements, allowed by the court, shall  
53 be a first charge upon any system revenues of the commissioners pledged  
54 for the payment or security of bonds of such series.

1 11. Neither the members of the commission nor any person executing  
2 bonds issued pursuant to this act shall be liable personally on the bonds by  
3 reason of the issuance thereof. Bonds or other obligations issued pursuant  
4 to this act shall not be in any way a debt or liability of the State or of any  
5 county or municipality and shall not create or constitute any indebtedness,  
6 liability or obligation of the State or of any such county or municipality,  
7 either legal, moral or otherwise, and nothing in this act contained shall be  
8 construed to authorize the commissioners to incur any indebtedness on behalf  
9 of or in any way to obligate the State or any county or municipality.

1 12. For all purposes of the original act and of any contract made or  
2 hereafter made thereunder or for the purposes of the original act, the cost  
3 and expense of maintenance, repair and operation of the sewerage system for  
4 any year shall be deemed to include, and shall include, in addition to all  
5 items included by virtue of the original act or any such contract, all interest  
6 becoming due prior to the end of such year on bonds or other obligations

7 of the commissioners issued pursuant to this act, plus the principal or re-  
8 demption premium of any such bonds or obligations becoming due prior to  
9 the end of such year, plus such sums as the commissioners may determine  
10 or by the terms of any contract be required to set aside during such year as  
11 a reserve for payment or security of principal of or interest on any such  
12 bonds or obligations or be by the terms of any contract required to set aside  
13 during such year as a reserve for any other purpose. The contracting mu-  
14 nicipalities are hereby authorized and directed to do and perform any and  
15 all acts and things necessary, convenient or desirable to pay to the commis-  
16 sioners annually the total cost and expense (as herein referred to and de-  
17 scribed) of maintenance, repair and operation of the sewerage system in ac-  
18 cordance with the original act and the contracts made thereunder or for the  
19 purposes of the original act. If any payment on account of the cost and  
20 expense (as herein referred to and described) of maintenance, repair and  
21 operation of the sewerage system, or any part thereof, due to the commis-  
22 sioners under the original act or any such contract from a contracting mu-  
23 nicipality shall remain unpaid for thirty days following its due date, such  
24 contracting municipality shall be charged with and shall pay to the commis-  
25 sioners interest on the amount unpaid from its due date until paid, at the  
26 rate of six per centum (6%) per annum. Every obligation assumed by or  
27 imposed upon any contracting municipality by the original act or any such  
28 contract or this act shall be enforceable by the commissioners by appro-  
29 priate action, suit or proceeding, and the commissioners may have and  
30 pursue any and all remedies provided by law for the enforcement of such  
31 obligation.

1 13. Neither the commissioners nor any county or municipality shall have  
2 power to mortgage, pledge, encumber or otherwise dispose of any part of the  
3 sewerage system, except that the commissioners may dispose of such part or  
4 part thereof as may be no longer necessary for the purposes of the com-  
5 missioners. The provisions of this section shall be deemed to constitute a

6 part of the contract with the holder of any bonds. All property of the  
7 commissioners shall be exempt from levy and sale by virtue of an execution  
8 and no execution or other judicial process shall issue against the same nor  
9 shall any judgment against the commissioners be a charge or lien upon its  
10 property; *provided, however*, that nothing herein contained shall apply to  
11 or limit the rights of the holder of any bonds to pursue any remedy for the  
12 enforcement of any pledge or lien given by the commissioners on its system  
13 revenues or other moneys.

1 14. Notwithstanding any restriction contained in any other law, the State  
2 and all public officers, municipalities, counties, political subdivisions and pub-  
3 lic bodies, and agencies thereof, all banks, bankers, trust companies, savings  
4 banks and institutions, building and loan associations, savings and loan as-  
5 sociations, investment companies, and other persons carrying on a banking  
6 business, all insurance companies, insurance associations and other persons  
7 carrying on an insurance business, and all executors, administrators,  
8 guardians, trustees and other fiduciaries, may legally invest any sinking  
9 funds, moneys or other funds belonging to them or within their control in  
10 any bonds, and such bonds shall be authorized security for any and all public  
11 deposits.

1 15. The sewerage system and all other property of the commissioners are  
2 hereby declared to be public property of a political subdivision of the State  
3 and devoted to an essential public and governmental function and purpose  
4 and shall be exempt from all taxes and special assessments of the State or  
5 any subdivision thereof. All bonds are hereby declared to be issued by a  
6 political subdivision of this State and for an essential public and govern-  
7 mental purpose and to be a public instrumentality and such bonds, and the  
8 interest thereon and the income therefrom, and all funds, income, system  
9 revenues and other moneys pledged or available to pay or secure the pay-  
10 ment of such bonds, or interest thereon, shall at all times be exempt from  
11 taxation except for estate and transfer inheritance taxes and taxes on  
12 transfers by or in contemplation of death.

1 16. The State of New Jersey does hereby pledge to and covenant and  
 2 agree with the holders of any bonds that the State will not limit or alter the  
 3 rights hereby vested in the commissioners to acquire, construct, maintain,  
 4 reconstruct and operate the sewerage system and to fulfill the terms of any  
 5 agreement made with the holders of such bonds or other obligations, and  
 6 will not in any way impair the rights or remedies of such holders, and will  
 7 not modify in any way the exemptions from taxation provided for in this  
 8 act, until the bonds, together with interest thereon, with interest on any  
 9 unpaid installments of interest, and all costs and expenses in connection with  
 10 any action or proceeding by or on behalf of such holders, are fully met and  
 11 discharged.

1 17. The powers granted and duties imposed by this act are cumulative  
 2 and are granted or imposed in addition to and not in substitution for exist-  
 3 ing powers or duties of the commissioners or any municipality, and are not  
 4 subject to any limitation or restriction prescribed by any other laws.

1 18. If any section, subsection, clause or provision of this act shall be  
 2 adjudged unconstitutional or to be ineffective in whole or in part, to the  
 3 extent that it is not adjudged unconstitutional or is not ineffective it shall  
 4 be valid and effective and no other section, subsection, clause or provision of  
 5 this act shall on account thereof be deemed invalid or ineffective, and the  
 6 inapplicability or invalidity of any section, subsection, clause or provision of  
 7 this act in any one or more instances or under any one or more circumstances  
 8 shall not be taken to affect or prejudice in any way its applicability or  
 9 validity in any other instance or under any other circumstance.

1 19. This act shall take effect immediately.

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#### STATEMENT

This bill is a measure vitally needed in order to protect the public health  
 in and around the Passaic valley. Its purpose and effect is stated in the title and  
 in section one.

[OFFICIAL COPY REPRINT]

**ASSEMBLY, No. 116**

**STATE OF NEW JERSEY**

INTRODUCED JANUARY 19, 1953

By Mr. SAIBER

Referred to Committee on Municipalities

AN ACT concerning the Passaic Valley Sewerage Commissioners and the sanitation facilities constructed or to be constructed by it, providing for the issuance of bonds and other obligations for financing such facilities, and prescribing powers and duties of said commissioners and of municipalities with respect thereto, and supplementing chapter fourteen of Title 58 of the Revised Statutes.

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

1 1. It has been ascertained by the Legislature of the State of New Jersey  
2 and is hereby declared: (a) that there is imperative need for repair, replace-  
3 ment and improvement of the sewerage system (hereinafter defined)  
4 operated by the commissioners (hereinafter defined), including particularly  
5 immediate enlargement and betterment of the sewage treatment and dis-  
6 posal works thereof and also in due time replacement and enlargement of  
7 the existing sewage intercepting and collecting facilities thereof; (b) that  
8 the existence of such need threatens the waters of the Passaic river with  
9 pollution, and failure or delay in meeting such need will jeopardize the  
10 health, safety and welfare of residents of the State and impair property and  
11 other economic values and, by reason of discharge of effluent from the  
12 sewerage system in waters of New York bay, will harm the relations of the  
13 State with other States and with public health agencies; (c) that such need

14 arises principally from the long, continuous and heavy use made and being  
 15 made of the sewerage system since its operation began in one thousand  
 16 nine hundred and twenty-four, the impracticability during such use of mak-  
 17 ing on an annual or any other periodic basis the alterations and improve-  
 18 ments required in order to provide for the increase of population and the  
 19 rise in acceptable standards for sewage treatment and disposal, and the  
 20 damage, wear and tear, depreciation and obsolescence incident to such use;  
 21 (d) that the expense of meeting such need and providing such repair,  
 22 replacement and improvement, together with any amortization or interest  
 23 charges in connection with such expense, is in substance and effect part of  
 24 the cost of maintenance, repair and operation of the sewerage system;  
 25 (e) that the provisions of the statutes and of contracts made or to be made  
 26 pursuant thereto whereby the contracting municipalities (hereinafter defined)  
 27 or the commissioners could raise funds to meet such expense in the amounts  
 28 required are not sufficiently flexible and are impracticable, and application  
 29 thereof would result in oppressive or inequitable taxation to meet such  
 30 expense; and (f) that it is necessary, as in this act provided, to afford a  
 31 practical means of relief in the premises and to permit and require the con-  
 32 tracting municipalities as users of the sewerage system to meet and pay the  
 33 expense of meeting such need on an economical and reasonable basis over a  
 34 reasonable number of years.

1 2. As used in this act, unless a different meaning clearly appears from  
 2 the context:

3 (a) "Original act" shall mean chapter fourteen of Title 58 of the Re-  
 4 vised Statutes (section 58:14-1, et seq.) and the acts continued thereby and  
 5 the acts heretofore adopted amendatory thereof or supplemental thereto:

6 (b) "Commissioners" shall mean the Passaic Valley Sewerage Com-  
 7 missioners, the body politic and corporate of the State of New Jersey ap-  
 8 pointed, organized, created and existing pursuant to the original act;

9 (c) "Sewerage system" shall mean the Passaic Valley intercepting

10 sewer together with its branches and appurtenances and all plants, struc-  
11 tures and other real and tangible personal property acquired, constructed  
12 or operated by the commissioners and such other plants, structures and other  
13 real and tangible personal property as may be acquired or constructed by the  
14 commissioners pursuant to this act;

15 (d) "Municipality" shall mean any city of any class, any borough,  
16 village, town, township, or any other municipality other than a county or a  
17 school district;

18 (e) "Contracting municipality" shall mean any municipality entitled to  
19 rights in and use of the sewerage system by virtue of contributions hereto-  
20 fore made by it to the commissioners toward the costs of construction of the  
21 sewerage system pursuant to the provisions of the original act and any con-  
22 tract heretofore made between the commissioners and one or more munici-  
23 palities with respect to such construction and contributions;

24 (f) "Governing body" shall mean the commission, council, board or  
25 body, by whatever name it may be known, having charge of the finances of a  
26 municipality;

27 (g) "Project" shall mean any or all sewers, conduits, pipelines, mains,  
28 pumping and ventilating stations, sewage treatment or disposal systems,  
29 plants or works, connections and outfalls, located southerly and easterly of the  
30 intersection in the city of Newark, New Jersey, of Wilson avenue and Avenue  
31 P and deemed by the commissioners to be necessary or desirable as part of  
32 the sewerage system, including alterations, additions and modifications  
33 thereto and equipment or appurtenances thereof and any real or tangible  
34 personal property necessary or desirable for the construction or operation  
35 thereof;

36 (h) "Bonds" shall mean bonds or other obligations of the commission-  
37 ers issued pursuant to this act; and

38 (i) "System revenues" shall mean the moneys paid or required to be  
39 paid by any contracting municipality to the commissioners on account of the

40 cost of maintenance, repair and operation of the sewerage system under the  
41 provisions of the original act or any contract heretofore made in accord-  
42 ance therewith between the commissioners and one or more municipalities or  
43 under the provisions of this act.

1       3. The commissioners shall have full powers and lawful authority, in  
2 addition to all powers granted by the original act, to own, maintain, repair,  
3 reconstruct, operate and use the sewerage system and, to that end, to ac-  
4 quire, by purchase, gift, condemnation or otherwise, and, notwithstanding the  
5 provisions of any charter, ordinance or resolution of any county or munic-  
6 pality to the contrary, to construct, maintain, repair, reconstruct, operate  
7 and use all such plants, structures, equipment and facilities, and other real  
8 and personal property, as shall in the judgment of the commissioners con-  
9 stitute a project.

1       4. The commissioners shall be or continue to be a public body politic  
2 and corporate established as an instrumentality exercising public and essen-  
3 tial governmental functions to provide for the public health and welfare  
4 and shall have the following powers in addition to any or all powers granted  
5 to it by the original act:

6       (a) In its own name and on its own behalf, to acquire, hold, use and dis-  
7 pose of its system revenues and other moneys;

8       (b) To provide for and secure the payment of any bonds and the rights  
9 of the holders thereof, and to purchase, hold and dispose of any bonds:

10       (c) To accept gifts or grants of real or personal property, money, ma-  
11 terial, labor or supplies, and to make and perform such agreements and con-  
12 tracts as may be necessary or convenient in connection with the procuring,  
13 acceptance or disposition of such gifts or grants;

14       (d) To make and enforce by-laws or rules and regulations for the man-  
15 agement and regulation of its business and affairs and for the use, main-  
16 nance and operation of the sewerage system and any other of its properties,  
17 and to amend the same;

18 (e) To do and perform any acts and things authorized by this act un-  
19 der, through or by means of its own officers, agents and employees, or by  
20 contracts with any persons; and

21 (f) To enter into any and all contracts, execute any and all instruments,  
22 and do and perform any and all acts or things necessary, convenient or de-  
23 sirable to carry out any power expressly given in this act.

1 5. (a) For the purpose of raising funds to pay the cost of any project,  
2 the commissioners shall have power to authorize and provide for the issu-  
3 ance of its bonds pursuant to this act in an aggregate principal amount not  
4 exceeding ten million dollars (\$10,000,000.00). Such bonds shall be author-  
5 ized by and be issued pursuant to a resolution (in this act sometimes referred  
6 to as "bond resolution") of the commissioners which shall (1) describe the  
7 project in brief and general terms sufficient for reasonable identification,  
8 and (2) state the amount of bonds authorized thereby. There shall be in-  
9 cluded in such cost of the project such amounts as the commissioners shall  
10 deem necessary or advisable to provide for interest or discount on bonds,  
11 cost of issuance of bonds, engineering and inspection costs and legal ex-  
12 penses, cost of financial, professional and other estimates and advice, and  
13 all such other expenses as may be necessary and incident to the financing,  
14 acquisition, construction and completion of the project and the placing of  
15 the same in operation, and also such provision or reserves for working cap-  
16 ital, operating, maintenance or replacement expenses or for payment or se-  
17 curity of principal of or interest on bonds during or after such acquisition  
18 or construction as the commissioners may determine to be necessary or ad-  
19 visable.

20 (b) After adoption of a bond resolution, the commissioners shall (1)  
21 cause copy thereof, certified by its secretary, to be mailed to the governing  
22 body of each contracting municipality; (2) cause notice of the date, time  
23 and place of the hearing hereinafter mentioned to be published at least once  
24 in a newspaper of general circulation published in the city of Newark, New  
25 Jersey; and (3) not sooner than fifteen days after such publication or thirty

26 days after such mailing, hold a public hearing in the Passaic Valley Sewer-  
27 age District on said bond resolution at which any contracting municipality  
28 may appear in person or by agent or attorney and be heard with respect  
29 thereto. Said bond resolution shall take effect on the thirtieth day after the  
30 conclusion of such public hearing unless prior to such thirtieth day the gov-  
31 erning bodies of contracting municipalities shall have caused to be filed with  
32 the secretary of the commissioners copies, certified by their respective  
33 clerks, of resolutions adopted by such governing bodies respectively object-  
34 ing to said bond resolution and it shall appear that the contracting munic-  
35 ipalities on behalf of which such objecting resolutions were adopted paid  
36 twenty-five per centum (25%) or more of the total amount of moneys re-  
37 ceived by the commissioners from contracting municipalities during the cal-  
38 endar year ending on the last day of December next preceding the date of  
39 such public hearing.

40 (c) Upon the taking effect of a bond resolution, the commissioners shall  
41 have power to incur indebtedness, borrow money and issue its bonds for the  
42 purpose or respective purposes described therein. Such bonds shall be au-  
43 thorized by the bond resolution and may be issued in one or more series and  
44 shall bear such date or dates, mature at such time or times not exceeding  
45 forty years from the date thereof, bear interest at such rate or rates not ex-  
46 ceeding six per centum (6%) per annum, be in such denomination or de-  
47 nominations, be in such form, either coupon or registered, carry such con-  
48 version or registration privileges, have such rank or priority, be executed  
49 in such manner, be payable from such sources in such medium of payment  
50 at such place or places within or without the State, and be subject to such  
51 terms of redemption (with or without premium) as the bond resolution may  
52 provide.

53 (d) After the taking effect of a bond resolution but prior to the issuance  
54 of the bonds authorized thereby, the commissioners may amend such bond  
55 resolution in any particular except as to the matters required by paragraph  
56 (a) of this section to be described or stated therein.

57 (e) Bonds of the commissioners may be sold by the commissioners at  
58 public or private sale at such price or prices as the commissioners shall  
59 determine; *provided, however*, that the interest cost to maturity of the  
60 money received for any issue of bonds (computed according to standard  
61 tables of bond values) shall not exceed six per centum (6%) per annum.

1 6. After the taking effect of a bond resolution, the commissioners may  
2 cause to be published in a newspaper of general circulation published in the  
3 city of Newark, New Jersey, the title of said bond resolution together with a  
4 notice stating the date of its adoption and also the date of the first publica-  
5 tion of such notice and also that any action or proceeding of any kind or  
6 nature in any court questioning the validity of the creation and establish-  
7 ment of the commissioners, or the validity or proper authorization of the  
8 bonds provided for by said bond resolution, or the validity of this act or of  
9 any obligations, covenants, agreements or contracts provided for by this act  
10 or said bond resolution shall be commenced within twenty days after the  
11 first publication of such notice. If no such action or proceeding shall be com-  
12 menced or instituted within twenty days after the first publication of such  
13 notice, then all contracting municipalities and residents and taxpayers and  
14 owners of property therein and all other persons whatsoever shall be forever  
15 barred and foreclosed from instituting or commencing any action or proceed-  
16 ing in any court, and from pleading in any action or proceeding any de-  
17 fense, questioning the validity of the creation and establishment of the com-  
18 missioners, the validity or proper authorization of such bonds, or the validity  
19 of this act or of any such obligations, covenants, agreements or contracts,  
20 and all such bonds, obligations, covenants, agreements and contracts shall be  
21 conclusively deemed to be valid and binding obligations in accordance with  
22 their terms and tenor.

1 7. After sale of any bonds pursuant to this act, the commissioners shall  
2 have power to authorize the execution and issuance to the purchasers, pend-  
3 ing the preparation of the definitive bonds, of interim certificates therefor

4 or of temporary bonds or other temporary instruments exchangeable for the  
5 definitive bonds when prepared, executed and ready for delivery. The  
6 holders of such interim certificates, temporary bonds or other temporary in-  
7 struments shall have all the rights and remedies which they would have as  
8 holders of the definitive bonds.

1 8. Any provision of any law to the contrary notwithstanding, any bond  
2 or other obligation issued pursuant to this act shall be fully negotiable  
3 within the meaning and for all purposes of the negotiable instruments law  
4 of the State, and each holder or owner of such a bond or other obligation, or  
5 of any coupon appurtenant thereto, by accepting such bond or coupon shall be  
6 conclusively deemed to have agreed that such bond, obligation or coupon is  
7 and shall be fully negotiable within the meaning and for all purposes of said  
8 negotiable instruments law.

1 9. Any bond resolution of the commissioners providing for or authoriz-  
2 ing the issuance of any bonds may contain provisions, and the commission-  
3 ers, in order to secure the payment of such bonds and in addition to its other  
4 powers, shall have power by provision in the bond resolution to covenant and  
5 agree with the several holders of such bonds, as to:

6 (1) the custody, security, use, expenditure or application of the proceeds  
7 of the bonds;

8 (2) the construction and completion, or replacement, of all or any part  
9 of the sewerage system, including the project described therein;

10 (3) the use, regulation, operation, maintenance, insurance or disposition  
11 of all or any part of the sewerage system, or restrictions on the exercise of  
12 the powers of the commissioners to dispose, or to limit or regulate the use, of  
13 all or any part of the sewerage system;

14 (4) payment of the principal of or interest on the bonds, or any other ob-  
15 ligations, and the sources and methods thereof, the rank or priority of any  
16 such bonds or obligations as to any lien or security, or the acceleration of the  
17 maturity of any such bonds or obligations;

18 (5) the use and disposition of any moneys of the commissioners, includ-  
19 ing system revenues and any other moneys derived or to be derived from or  
20 in connection with the ownership or operation of all or any part of the  
21 sewerage system, including any parts thereof theretofore constructed or ac-  
22 quired and any parts, extensions, replacements or improvements thereof  
23 thereafter constructed or acquired;

24 (6) pledging, setting aside, depositing or trusteeing all or any part of  
25 the system revenues or other moneys or any contracts of the commissioners  
26 to secure the payment of the principal of or interest on the bonds or any other  
27 obligations, or the payment of expenses of operation or maintenance of the  
28 sewerage system, and the powers and duties of any trustee with regard  
29 thereto;

30 (7) the setting aside out of the system revenues or other moneys of the  
31 commissioners of reserves and sinking funds, and the source, custody,  
32 security, regulation, application and disposition thereof;

33 (8) computation, establishment, determination or definition of system  
34 revenues or of costs of maintenance, repair and operation of the sewerage  
35 system, or of any part thereof;

36 (9) system revenues and the rents, rates, fees, or other charges for con-  
37 nection with or the use or services of the sewerage system, including any  
38 parts thereof theretofore constructed or acquired and any parts, extensions,  
39 replacements or improvements thereof thereafter constructed or acquired,  
40 and the fixing, establishment, collection and enforcement of the same, the  
41 amount or amounts of system revenues to be produced thereby, and the dis-  
42 position and application of system revenues and the amounts charged or col-  
43 lected;

44 (10) the assumption or payment or discharge of any indebtedness, liens  
45 or other claims relating to any part of the sewerage system or any obliga-  
46 tions having or which may have a lien on any part of the system revenues;

47 (11) limitations on the issuance of additional bonds or any other obli-  
48 gations or on the incurrence of indebtedness of the commissioners;

49 (12) limitations on the powers of the commissioners to construct, acquire  
50 or operate, or permit the construction, acquisition or operation of, any plants,  
51 structures, facilities or properties which may compete or tend to compete with  
52 the sewerage system;

53 (13) vesting in a trustee or trustees such property, rights, powers and  
54 duties in trust as the commissioners may determine which may include any  
55 or all of the rights, powers and duties of the trustee appointed by the  
56 holders of bonds pursuant to section ten of this act, and limiting or abro-  
57 gating the right of such holders to appoint a trustee pursuant to section ten  
58 of this act or limiting the rights, duties and powers of such trustee;

59 (14) payment of costs or expenses incident to the enforcement of the  
60 bonds or of the provisions of the bond resolution or of any covenant or con-  
61 tract with the holders of the bonds;

62 (15) the procedure, if any, by which the terms of any covenant or con-  
63 tract with, or duty to, the holders of bonds may be amended or abrogated,  
64 the amount of bonds the holders of which must consent thereto, and the man-  
65 ner in which such consent may be given or evidenced; or

66 (16) any other matter or course of conduct which, by recital in the bond  
67 resolution, is declared to further secure the payment of the principal of or  
68 interest on the bonds.

69 All such provisions of the bond resolution and all such covenants and  
70 agreements shall constitute valid and legally binding contracts between the  
71 commissioners and the several holders of the bonds, regardless of the time  
72 of issuance of such bonds, and shall be enforceable by any such holder or  
73 holders by mandamus or other appropriate action, suit or proceeding at  
74 law or in equity in any court of competent jurisdiction.

1 10. (a) The provisions of this section shall be applicable to a series of  
2 bonds authorized or issued under this act only if the bond resolution of the  
3 commissioners authorizing or providing for the issuance of such bonds, or an  
4 amendment thereof, shall provide in substance that the holders of the bonds  
5 of such series shall be entitled to the benefits, and be subject to the provi-  
6 sions of this section.

7 (b) In the event that there shall be a default in the payment of principal  
8 of or interest on any bonds of such series after the same shall become due,  
9 whether at maturity or upon call for redemption, and such default shall  
10 continue for a period of thirty days, or in the event that the commissioners  
11 shall fail or refuse to comply with the provisions of this act or shall fail or  
12 refuse to carry out and perform the terms of any contract with the holders  
13 of any of such bonds, and such failure or refusal shall continue for a  
14 period of ninety days after written notice to the commissioners of its  
15 existence and nature, the holders of twenty-five per centum (25%) in aggre-  
16 gate principal amount of the bonds of such series then outstanding by instru-  
17 ment or instruments filed in the office of the Secretary of State and proved  
18 or acknowledged in the same manner as a deed to be recorded, may ap-  
19 point a trustee to represent the holders of the bonds of such series for the  
20 purposes provided in this section.

21 (c) Such trustee may and upon written request of the holders of twenty-  
22 five per centum (25%) in aggregate principal amount of the bonds of such  
23 series then outstanding shall, in his or its own name:

24 (1) By action, suit or proceeding in the nature of mandamus, in-  
25 junction, certiorari or otherwise, enforce all rights of the holders of  
26 such bonds, including the right to require the commissioners to charge  
27 and collect system revenues and other charges adequate to carry out  
28 any contract as to, or pledge of, such moneys, and to require the com-  
29 missioners to carry out and perform the terms of any contract with the  
30 holders of such bonds or its duties under this act;

31 (2) Bring action upon all or any part of such bonds or interest  
32 coupons or claims appurtenant thereto;

33 (3) By action, suit or other proceeding, as if in equity, require the  
34 commissioners to account as if it were the trustee of an express trust for  
35 the holders of such bonds;

36 (4) By action, suit or other proceeding, as if in equity, enjoin any  
37 acts or things which may be unlawful or in violation of the rights of the  
38 holders of such bonds; or

39 (5) Declare all such bonds due and payable, whether or not in  
40 advance of maturity, upon thirty days' prior notice in writing to the  
41 commissioners and, if all defaults shall be made good, then with the  
42 consent of the holders of twenty-five per centum (25%) of the principal  
43 amount of such bonds then outstanding, annul such declaration and its  
44 consequences.

45 (d) Such trustee shall, in addition to the foregoing, have and possess  
46 all of the powers necessary or appropriate for the exercise of the functions  
47 specifically set forth herein or incident to the general representation of the  
48 holders of bonds of such series in the enforcement and protection of their  
49 rights.

50 (e) In any action, suit or other proceeding by such trustee, the fees,  
51 counsel fees and expenses of the trustee shall constitute taxable costs and  
52 disbursements, and all costs and disbursements, allowed by the court, shall  
53 be a first charge upon any system revenues of the commissioners pledged  
54 for the payment or security of bonds of such series.

1 11. Neither the members of the commission nor any person executing  
2 bonds issued pursuant to this act shall be liable personally on the bonds by  
3 reason of the issuance thereof. Bonds or other obligations issued pursuant  
4 to this act shall not be in any way a debt or liability of the State or of any  
5 county or municipality and shall not create or constitute any indebtedness,  
6 liability or obligation of the State or of any such county or municipality,  
7 either legal, moral or otherwise, and nothing in this act contained shall be  
8 construed to authorize the commissioners to incur any indebtedness on behalf  
9 of or in any way to obligate the State or any county or municipality.

1 12. For all purposes of the original act and of any contract made or  
2 hereafter made thereunder or for the purposes of the original act, the cost  
3 and expense of maintenance, repair and operation of the sewerage system for  
4 any year shall be deemed to include, and shall include, in addition to all  
5 items included by virtue of the original act or any such contract, all interest  
6 becoming due prior to the end of such year on bonds or other obligations

7 of the commissioners issued pursuant to this act, plus the principal or re-  
8 demption premium of any such bonds or obligations becoming due prior to  
9 the end of such year, plus such sums as the commissioners may determine  
10 or by the terms of any contract be required to set aside during such year as  
11 a reserve for payment or security of principal of or interest on any such  
12 bonds or obligations or be by the terms of any contract required to set aside  
13 during such year as a reserve for any other purpose. The contracting mu-  
14 nicipalities are hereby authorized and directed to do and perform any and  
15 all acts and things necessary, convenient or desirable to pay to the commis-  
16 sioners annually the total cost and expense (as herein referred to and de-  
17 scribed) of maintenance, repair and operation of the sewerage system in ac-  
18 cordance with the original act and the contracts made thereunder or for the  
19 purposes of the original act. If any payment on account of the cost and  
20 expense (as herein referred to and described) of maintenance, repair and  
21 operation of the sewerage system, or any part thereof, due to the commis-  
22 sioners under the original act or any such contract from a contracting mu-  
23 nicipality shall remain unpaid for thirty days following its due date, such  
24 contracting municipality shall be charged with and shall pay to the commis-  
25 sioners interest on the amount unpaid from its due date until paid, at the  
26 rate of six per centum (6%) per annum. Every obligation assumed by or  
27 imposed upon any contracting municipality by the original act or any such  
28 contract or this act shall be enforceable by the commissioners by appro-  
29 priate action, suit or proceeding, and the commissioners may have and  
30 pursue any and all remedies provided by law for the enforcement of such  
31 obligation.

1 13. Neither the commissioners nor any county or municipality shall have  
2 power to mortgage, pledge, encumber or otherwise dispose of any part of the  
3 sewerage system, except that the commissioners may dispose of such part or  
4 part thereof as may be no longer necessary for the purposes of the com-  
5 missioners. The provisions of this section shall be deemed to constitute a

6 part of the contract with the holder of any bonds. All property of the  
7 commissioners shall be exempt from levy and sale by virtue of an execution  
8 and no execution or other judicial process shall issue against the same nor  
9 shall any judgment against the commissioners be a charge or lien upon its  
10 property; *provided, however,* that nothing herein contained shall apply to  
11 or limit the rights of the holder of any bonds to pursue any remedy for the  
12 enforcement of any pledge or lien given by the commissioners on its system  
13 revenues or other moneys.

1 14. Notwithstanding any restriction contained in any other law, the State  
2 and all public officers, municipalities, counties, political subdivisions and pub-  
3 lic bodies, and agencies thereof, all banks, bankers, trust companies, savings  
4 banks and institutions, building and loan associations, savings and loan as-  
5 sociations, investment companies, and other persons carrying on a banking  
6 business, all insurance companies, insurance associations and other persons  
7 carrying on an insurance business, and all executors, administrators,  
8 guardians, trustees and other fiduciaries, may legally invest any sinking  
9 funds, moneys or other funds belonging to them or within their control in  
10 any bonds, and such bonds shall be authorized security for any and all public  
11 deposits.

1 15. The sewerage system and all other property of the commissioners are  
2 hereby declared to be public property of a political subdivision of the State  
3 and devoted to an essential public and governmental function and purpose  
4 and shall be exempt from all taxes and special assessments of the State or  
5 any subdivision thereof. All bonds are hereby declared to be issued by a  
6 political subdivision of this State and for an essential public and govern-  
7 mental purpose and to be a public instrumentality and such bonds, and the  
8 interest thereon and the income therefrom, and all funds, income, system  
9 revenues and other moneys pledged or available to pay or secure the pay-  
10 ment of such bonds, or interest thereon, shall at all times be exempt from  
11 taxation except for estate and transfer inheritance taxes and taxes on  
12 transfers by or in contemplation of death.

1 16. The State of New Jersey does hereby pledge to and covenant and  
2 agree with the holders of any bonds that the State will not limit or alter the  
3 rights hereby vested in the commissioners to acquire, construct, maintain,  
4 reconstruct and operate the sewerage system and to fulfill the terms of any  
5 agreement made with the holders of such bonds or other obligations, and  
6 will not in any way impair the rights or remedies of such holders, and will  
7 not modify in any way the exemptions from taxation provided for in this  
8 act, until the bonds, together with interest thereon, with interest on any  
9 unpaid installments of interest, and all costs and expenses in connection with  
10 any action or proceeding by or on behalf of such holders, are fully met and  
11 discharged.

1 17. The powers granted and duties imposed by this act are cumulative  
2 and are granted or imposed in addition to and not in substitution for exist-  
3 ing powers or duties of the commissioners or any municipality, and are not  
4 subject to any limitation or restriction prescribed by any other laws.

1 18. If any section, subsection, clause or provision of this act shall be  
2 adjudged unconstitutional or to be ineffective in whole or in part, to the  
3 extent that it is not adjudged unconstitutional or is not ineffective it shall  
4 be valid and effective and no other section, subsection, clause or provision of  
5 this act shall on account thereof be deemed invalid or ineffective, and the  
6 inapplicability or invalidity of any section, subsection, clause or provision of  
7 this act in any one or more instances or under any one or more circumstances  
8 shall not be taken to affect or prejudice in any way its applicability or  
9 validity in any other instance or under any other circumstance.

1 19. This act shall take effect immediately.

COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 116**

**STATE OF NEW JERSEY**

ADOPTED MAY 21, 1953

AN ACT concerning the Passaic Valley Sewerage Commissioners and the sanitation facilities constructed or to be constructed by it, providing for the issuance of bonds and other obligations for financing such facilities, and prescribing powers and duties of said commissioners and of municipalities with respect thereto, and supplementing chapter fourteen of Title 58 of the Revised Statutes.

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

1 1. It has been ascertained by the Legislature of the State of New Jersey  
2 and is hereby declared: (a) that there is imperative need for repair, replace-  
3 ment and improvement of the sewerage system (hereinafter defined)  
4 operated by the commissioners (hereinafter defined), including particularly  
5 immediate enlargement and betterment of the sewage treatment and dis-  
6 posal works thereof; (b) that the existence of such need threatens the  
7 waters of the Passaic river and Newark bay with pollution, and  
8 failure or delay in meeting such need will jeopardize the health,  
9-10 safety and welfare of residents of the State and impair property and  
11 other economic values and, by reason of discharge of effluent from the  
12 sewerage system in waters of New York bay, will harm the relations of the  
13 State with other States and with public health agencies; (c) that such need  
14 arises principally from the long, continuous and heavy use made and being

15 made of the sewerage system since its operation began in one thousand  
 16 nine hundred and twenty-four, the impracticability during such use of mak-  
 17 ing on an annual or any other periodic basis the alterations and improve-  
 18 ments required in order to provide for the increase of population and the  
 19 rise in acceptable standards for sewage treatment and disposal, and the  
 20 damage, wear and tear, depreciation and obsolescence incident to such use;  
 21 (d) that the expense of meeting such need and providing such repair,  
 22 replacement and improvement, together with any amortization or interest  
 23 charges in connection with such expense, is in substance and effect part of  
 24 the cost of maintenance, repair and operation of the sewerage system;  
 25 (e) that the provisions of the statutes and of contracts made or to be made  
 26 pursuant thereto whereby the contracting municipalities (hereinafter defined)  
 27 or the commissioners could raise funds to meet such expense in the amounts  
 28 required are not sufficiently flexible and are impracticable, and application  
 29 thereof would result in oppressive or inequitable taxation to meet such  
 30 expense; and (f) that it is necessary, as in this act provided, to afford a  
 31 practical means of relief in the premises and to permit and require the con-  
 32 tracting municipalities as users of the sewerage system to meet and pay the  
 33 expense of meeting such need on an economical and reasonable basis over a  
 34 reasonable number of years.

1       2. As used in this act, unless a different meaning clearly appears from  
 2 the context:

3       (a) "Original act" shall mean chapter fourteen of Title 58 of the Re-  
 4 vised Statutes (section 58:14-1, et seq.) and the acts continued thereby and  
 5 the acts heretofore adopted amendatory thereof or supplemental thereto;

6       (b) "Commissioners" shall mean the Passaic Valley Sewerage Com-  
 7 missioners, the body politic and corporate of the State of New Jersey ap-  
 8 pointed, organized, created and existing pursuant to the original act;

9       (c) "Sewerage system" shall mean the Passaic Valley intercepting  
 10 sewer together with its branches and appurtenances and all plants, struc-  
 11 tures and other real and tangible personal property acquired, constructed

12 or operated by the commissioners and such other plants, structures and other  
13 real and tangible personal property as may be acquired or constructed by the  
14 commissioners pursuant to this act;

15 (d) "Municipality" shall mean any city of any class, any borough,  
16 village, town, township, or any other municipality other than a county or a  
17 school district;

18 (e) "Contracting municipality" shall mean any municipality entitled to  
19 rights in and use of the sewerage system by virtue of contributions hereto-  
20 fore made by it to the commissioners toward the costs of construction of the  
21 sewerage system pursuant to the provisions of the original act and any con-  
22 tract heretofore made between the commissioners and one or more munici-  
23 palities with respect to such construction and contributions;

24 (f) "Governing body" shall mean the commission, council, board or  
25 body, by whatever name it may be known, having charge of the finances of a  
26 municipality;

27 (g) "Project" shall mean any alteration, addition or modification to the  
28 trunk sewer, disposal works, treatment works, dispersal field pumping sta-  
29 tion, structures, equipment and appurtenances located southerly and easterly  
30 of Wilson Avenue and Avenue P in the city of Newark, New Jersey, which  
31 alteration, addition or modification is deemed by the commissioner to be neces-  
32 sary or desirable and comprises only rehabilitation of the dispersal field,  
33 rehabilitation and modernization of the sedimentation basins, construction of  
34 new grit chambers, bar racks and fine screens, rehabilitation or modernization  
35 or electrification of the pumping station and equipment with or without in-  
36 stallation of additional pump units or direct-connected Diesel pump units or  
37 electrical substations, construction of necessary enclosing buildings, and mis-  
38 cellaneous repairs and reconstruction necessary in connection with the fore-  
39 going.

40 (h) "Bonds" shall mean bonds or other obligations of the commission  
41 ers issued pursuant to this act; and

\*

42 (i) "System revenues" shall mean the moneys paid or required to be  
43 paid by any contracting municipality or any other user of the sewerage sys-  
44 tem to the commissioners on account of the cost of maintenance, repair and  
45 operation of the sewerage system.

1 3. For the purpose of carrying out any of said projects the commission-  
2 ers shall have the power, in addition to the powers granted by the original  
3 act, to own, maintain, repair, reconstruct, operate and use the sewerage sys-  
4 tem and, to that end, to acquire, by purchase, gift, condemnation or otherwise,  
5 and, to construct, maintain, repair, reconstruct, operate and use all plants,  
6 structures, equipment and facilities, and other real and personal property,  
7 deemed necessary for, or incident to, any of said projects; and for said pur-  
8 pose only the commissioners may enter into any contracts, execute all instru-  
9 ments, and do all things necessary or convenient to carry out any power ex-  
10 pressly given in this act.

1 4. The commissioners shall be or continue to be a public body politic and  
2 corporate established as an instrumentality exercising public and essential  
3 governmental functions to provide for the public health and welfare and  
4 shall have the power, in its own name and on its own behalf, to acquire,  
5 hold, use and dispose of its system revenues and other moneys, and to  
6 provide for and secure the payment of any bonds and the rights of the  
7 holders thereof.

1 5. (a) For the purpose of raising funds to pay the cost of any of the  
2 projects, as defined in section one of this act, or any part of said projects,  
3 the commissioners shall have power from time to time to authorize and pro-  
4 vide for the issuance of its bonds pursuant to this act in an aggregate  
5 principal amount not exceeding ten million dollars (\$10,000,000.00). Such  
6 bonds shall be authorized by and be issued pursuant to a resolution or  
7 resolutions (in this act sometimes referred to as "bond resolution") of the  
8 commissioners which shall (1) describe the project or projects in brief and  
9 general terms sufficient for reasonable identification, and (2) state the amount  
10 of bonds authorized thereby. There shall be included in such cost of such  
11 project or projects such amounts as the commissioners shall deem necessary

12 or advisable to provide for the cost of issuance of bonds, of financial, legal,  
13 and accounting services and advice, for engineering, inspection, and profes-  
14 sional costs, and for all such other expenses as may be necessary and incident  
15 to the financing, acquisition, construction and completion of such project or  
16 projects and the placing of the same in operation.

17 (b) After adoption of a bond resolution, the commissioners shall (1)  
18 cause copy thereof, certified by its secretary, and a notice of the date, time  
19 and place of the hearing hereinafter mentioned to be mailed to the governing  
20 body of each contracting municipality; (2) cause such notice to be published  
21 at least once in a newspaper of general circulation published in the city of  
22 Newark, New Jersey; and (3) not sooner than thirty days after such public-  
23 tion and after such mailing, hold a public hearing in the Passaic Valley  
24 Sewerage District on said bond resolution at which any contracting munic-  
25 ipality may appear in person or by agent or attorney and be heard with respect  
26 thereto. Said bond resolution shall take effect on the thirtieth day after the  
27 conclusion of such public hearing unless prior to such thirtieth day the  
28 governing bodies of contracting municipalities shall have caused to be filed  
29 with the secretary of the commissioners copies, certified by their respective  
30 clerks, of resolutions adopted by such governing bodies respectively object-  
31 ing to said bond resolution and it shall appear that the contracting munic-  
32 ipalities on behalf of which such objecting resolutions were adopted paid  
33 twenty-five per centum (25%) or more of the total amount of moneys received  
34 by the commissioners from contracting municipalities during the calendar year  
35 ending on the last day of December next preceding the date of such public  
36 hearing.

37 (c) Upon the taking effect of a bond resolution, the commissioners shall  
38 have power to incur indebtedness, borrow money and issue its bonds for the  
39 purpose or respective purposes described therein. Such bonds shall be  
40 authorized by the bond resolution and may be issued in one or more series  
41 and shall bear such date or dates, mature at such time or times not exceeding  
42 forty years from the date thereof, bear interest at such rate or rates not  
43 exceeding six per centum (6%) per annum, be in such denomination or

44 denominations, be in such form, either coupon or registered, carry such  
45 conversion or registration privileges, have such rank or priority, be executed  
46 in such manner, be payable from such sources in such medium of payment  
47 at such place or places within or without the State, and be subject to such  
48 terms of redemption (with or without premium) as the bond resolution may  
49 provide.

50 (d) Bonds of the commissioners shall be sold by the commissioners at  
51 public sale not less than six nor more than forty days after notice of such  
52 sale has been published at least once in a newspaper published in the city  
53 of Newark and in a financial newspaper published and circulating in New  
54 York City, which shall state the terms of sale as determined by the com-  
55 missioners. The bonds shall be sold at such a price that the interest cost  
56 to maturity of the money received for any issue of bonds (computed accord-  
57 ing to standard tables of bond values) shall not exceed six per centum (6%)  
58 per annum and at such public sale shall be awarded upon the proposal offer-  
59 ing the lowest such interest cost.

1 6. After the taking effect of a bond resolution, the commissioners may  
2 cause to be published in a newspaper of general circulation published in the  
3 city of Newark the title of said bond resolution together with a notice stat-  
4 ing the date of its adoption and also the date of the first publication of such  
5 notice and also that any action or proceeding of any kind or nature in any  
6 court questioning the validity of the creation and establishment of the com-  
7 missioners, or the validity or proper authorization of the bonds provided  
8 for by said bond resolution, or the validity of this act or of any obligations,  
9 covenants, agreements or contracts provided for by this act or said bond  
10 resolution shall be commenced within twenty days after the first publication  
11 of such notice. If no such action or proceeding shall be commenced or insti-  
12 tuted within twenty days after the first publication of such notice, then all  
13 contracting municipalities and residents and taxpayers and owners of prop-  
14 erty therein and all other persons whatsoever shall be forever barred and  
15 foreclosed from instituting or commencing any action or proceeding in any

16 court, and from pleading in any action or proceeding any defense, question-  
17 ing the validity of the creation and establishment of the commissioners, the  
18 validity or proper authorization of such bonds, or the validity of this act or  
19 of any such obligations, covenants, agreements or contracts, and all such  
20 bonds, obligations, covenants, agreements and contracts shall be conclusively  
21 deemed to be valid and binding obligations in accordance with their terms  
22 and tenor.

1 7. Any provision of any law to the contrary notwithstanding, any bond  
2 or other obligation issued pursuant to this act shall be fully negotiable within  
3 the meaning and for all purposes of the negotiable instruments law of the  
4 State, and each holder or owner of such a bond or other obligation, or of any  
5 coupon appurtenant thereto, by accepting such bond or coupon shall be con-  
6 clusively deemed to have agreed that such bond, obligation or coupon is and  
7 shall be fully negotiable within the meaning and for all purposes of said ne-  
8 gotiable instruments law.

1 8. Any bond resolution of the commissioners authorizing the issuance  
2 of any bonds may contain provisions, which regardless of the time of issu-  
3 ance thereof shall be a part of the contract with the holders thereof, as to:

4 (a) the custody, security, use, expenditure or application of the proceeds  
5-6 of the bonds;

7 (b) payment of the principal of or interest on the bonds, or any other  
8 obligations, and the sources and methods thereof, the rank or priority of any  
9 such bonds or obligations as to any lien or security;

10 (c) the use and disposition of any moneys of the commissioners;

11 (d) pledging, setting aside, depositing or trusteeing all or any part of  
12 the system revenues or other moneys or any contracts of the commission-  
13 ers to secure the payment of the principal of or interest on the bonds or any  
14 other obligations, or the payment of expenses of operation or maintenance  
15 of the sewerage system, and the powers and duties of any trustee with re-  
16 gard thereto;

17 (e) the setting aside out of the system revenues or other moneys of  
18 the commissioners of reserves and sinking funds, and the source, custody,  
19 security, regulation, application and disposition thereof;

20 (f) System revenues and the rents, rates, fees, or other charges for  
21 connection with or the use or services of the sewerage system;

22 (g) vesting in a trustee or trustees such property, rights, powers and  
23 duties in trust as the commissioners may determine which may include any  
24 or all of the rights, powers and duties of the trustee appointed by the hold-  
25 ers of bonds pursuant to section ten of this act, and limiting or abrogating  
26 the right of such holders to appoint a trustee pursuant to section ten of this  
27 act or limiting the rights, duties and powers of such trustee;

28 (h) payment of costs or expenses incident to the enforcement of the  
29 bonds or of the provisions of the bond resolution or of any covenant or con-  
30 tract with the holders of the bonds;

31 (i) the procedure, if any, by which the terms of any covenant or con-  
32 tract with, or duty to, the holders of bonds may be amended or abrogated,  
33 the amount of bonds the holders of which must consent thereto, and the  
34 manner in which such consent may be given or evidenced.

1 9. (a) The provisions of this section shall be applicable to a series of  
2 bonds authorized or issued under this act only if the bond resolution of the  
3 commissioners authorizing or providing for the issuance of such bonds, or  
4 an amendment thereof, shall provide in substance that the holders of the  
5 bonds of such series shall be entitled to the benefits, and be subject to the  
6 provisions of this section.

7 (b) In the event that there shall be a default in the payment of princi-  
8 pal of or interest on any bonds of such series after the same shall become  
9 due, whether at maturity or upon call for redemption, and such default  
10 shall continue for a period of thirty days, or in the event that the commis-  
11 sioners shall fail or refuse to comply with the provisions of this act or shall  
12 fail or refuse to carry out and perform the terms of any contract with the  
13 holders of any of such bonds, and such failure or refusal shall continue for

14 a period of ninety days after written notice to the commissioners of its exist-  
15 ence and nature, the holders of twenty-five per centum (25%) in aggregate  
16 principal amount of the bonds of such series then outstanding by instrument  
17 or instruments filed in the office of the Secretary of State and proved or  
18 acknowledged in the same manner as a deed to be recorded, may appoint a  
19 trustee to represent the holders of the bonds of such series for the purposes  
20 provided in this section.

21 (c) Such trustee may and upon written request of the holders of twenty-  
22 five per centum (25%) in aggregate principal amount of the bonds of such  
23 series then outstanding shall, in his or its own name:

24 (1) By action, suit or proceeding in the nature of mandamus, in-  
25 junction, certiorari or otherwise, enforce all rights of the holders of such  
26 bonds, including the right to require the commissioners to charge and  
27 collect system revenues and other charges adequate to carry out any  
28 contract as to, or pledge of, such moneys, and to require the commis-  
29 sioners to carry out and perform the terms of any contract with the  
30 holders of such bonds or its duties under this act;

31 (2) Bring action upon all or any part of such bonds or interest cou-  
32 pons or claims appurtenant thereto;

33 (3) By action, suit or other proceeding, as if in equity, require the  
34 commissioners to account as if it were the trustee of an express trust  
35 for the holders of such bonds;

36 (4) By action, suit or other proceeding, as if in equity, enjoin any  
37 acts or things which may be unlawful or in violation of the rights of the  
38 holders of such bonds.

39 (d) Such trustee shall, in addition to the foregoing, have and possess all  
40 of the powers necessary or appropriate for the exercise of the functions  
41 specifically set forth herein or incident to the general representation of the  
42 holders of bonds of such series in the enforcement and protection of their  
43 rights.

43A (e) In any action, suit or other proceeding by such trustee, the fees,  
44 counsel fees and expenses of the trustee shall constitute taxable costs and  
45 disbursements, and all costs and disbursements, allowed by the court, shall be  
46 a first charge upon any system revenues of the commissioners pledged for  
47 the payment or security of bonds of such series.

1 10. Neither the members of the commission nor any person execut-  
2 ing bonds issued pursuant to this act shall be liable personally on the bonds  
3 by reason of the issuance thereof. Bonds or other obligations issued pursu-  
4 ant to this act shall not be in any way a debt or liability of the State or of  
5 any county or municipality and shall not create or constitute any indebted-  
6 ness, liability or obligation of the State or of any such county or municipality,  
7 either legal, moral or otherwise, and nothing in this act contained shall be  
8 construed to authorize the commissioners to incur any indebtedness on be-  
9 half of or in any way to obligate the State or any county or municipality.

1 11. (a) For all purposes of the original act, and of any contract made  
2 or hereafter made thereunder or for the purposes thereof, the cost and ex-  
3 pense of maintenance, repair and operation of the sewerage system for any  
4 year (as herein referred to and described) shall be apportioned annually  
5 among the contracting municipalities and other users thereof in proportion  
6 to the amount of sewage by them respectively delivered and discharged into  
7 the sewerage system and, except as provided in subsequent paragraphs of  
8 this section, shall be deemed to include, and shall include, in addition to all  
9 other items heretofore included, all interest becoming due prior to the end of  
10 such year on bonds or other obligations of the commissioners issued pursu-  
11 ant to this act, plus the principal of any such bonds or obligations becoming  
12 due, recalled for redemption, prior to the end of such year, and redemption  
13 premium (if any) plus such sums as the commissioners may determine or  
14 by the terms of any contract be required to set aside during such year as  
15 a reserve for payment or security of principal of or interest on any such  
16 bonds or obligations or be by the terms of any contract required to set aside  
17 during such year as a reserve for any other purpose. The contracting mu-

18 municipalities and other users of the sewerage system are hereby authorized  
19 and directed to do and perform any and all acts and things necessary, con-  
20 venient or desirable to pay to the commissioners annually the total cost and  
21 expense (as herein referred to and described) of maintenance, repair and op-  
22 eration of the sewerage system apportioned as above provided. If any pay-  
23 ment on account of the cost and expense (as herein referred to and described)  
24 of maintenance, repair and operation of the sewerage system, or any part  
25 thereof, due to the commissioners under the original act or any such contract  
26 from a contracting municipality or other user shall remain unpaid for thirty  
27 days after the commissioners have notified such contracting municipality or  
28 other user by mail of the amount due and the due date, such contracting mu-  
29 nicipality or other user shall be charged with and shall pay to the commis-  
30 sioners interest on the amount unpaid from thirty days after such notice of  
31 the commissioners was mailed until paid, at the rate of six per centum (6%)  
32 per annum. Every obligation assumed by or imposed upon any contracting  
33 municipality or other user by the original act or any such contract or this  
34 act shall be enforceable by the commissioners by appropriate action, suit or  
35 proceeding, and the commissioners may have and pursue any and all rem-  
36 edies provided by law for the enforcement of such obligation.

37 (b) The provisions of paragraph(a) of this section eleven shall not apply  
38 in the case of any contracting municipality which (1) at or before the end of  
39 the public hearing on a bond resolution provided for by paragraph (b) of sec-  
40 tion five files a written declaration or intention with the commissioners stating  
41 that said contracting municipality intends itself to finance all or any part  
42 of its share of the cost of any project or any part thereof to the financing  
43 of which said bond resolution relates, (2) prior to the publication of the  
44 notice of sale of bonds provided for in paragraph (d) of section five enters  
45 into an agreement relating to such bonds with the commissioners establishing  
46 a just and equitable formula pursuant to which annual adjustments shall be  
47 made in amounts due to the commissioners on account of the issuance of  
48 such bonds and to such contracting municipality on account of the payment

49. of said share, as hereinafter determined, in the event of and as a result of  
50 any increase or decrease in the proportionate share of such contracting mu-  
51 nicipality in the cost and expense of maintenance, repair and operation of  
52 the sewerage system and (3) pays said share, as hereinafter determined, to  
53 the commissioners not later than thirty days after the commissioners shall  
54 have sold the bonds, as provided in paragraph (e) of section five, for the pur-  
55 pose of financing any project. Any contracting municipality which does not  
56 file a declaration of intention with, or does not pay its share to, the commis-  
57 sioners in accordance with the foregoing provision, shall be subject to the  
58 provisions of paragraph (a) of this section but shall not be barred from fil-  
59 ing a declaration of intention with regard to any subsequent project.

60 (c) The share of any contracting municipality filing such a declaration  
61 of intention shall be determined and apportioned, for purposes of computing  
62 the payment to be made to the commissioners as provided in paragraph (b)  
63 of this section, on the basis of its proportionate share of the cost and ex-  
64 pense of such maintenance, repair and operation for the year next preced-  
65 ing the year of adoption of the bond resolution. The share of any contract-  
66 ing municipality filing such declaration of intention and making such payment  
67 shall thereafter be determined and apportioned in the same manner and  
68 mode of procedure by which its share of any other cost and expense of main-  
69 tenance, repair and operation of the sewerage system was determined in and  
70 for any year prior to the adoption of the bond resolution under the terms of  
71 the original act and any contract between such contracting municipality  
72 and the commissioners made thereunder or for the purpose of the original  
73 act, and the share of such a contracting municipality shall be increased or  
74 decreased only if its proportionate share of any other cost and expense of  
75 maintenance, repair and operation of the sewerage system is increased or  
76 decreased (as the case may be) under the original act and any such con-  
77 tract between such contracting municipality and the commissioners made  
78 thereunder or for the purposes of the original act by reason of the amount  
79 of sewage actually delivered or discharged into the sewerage system. The

80 obligation of any contracting municipality to pay its share as stated in a  
81 declaration of intention and its obligation to pay any additional amount  
82 shall be enforceable in the same manner as any other obligation assumed  
83 by or imposed upon any contracting municipality by the original act or any  
84 contract made thereunder or for the purpose of the original act, or by this  
85 act.

86 (d) Any contracting municipality filing a written declaration of inten-  
87 tion with the commissioners under the provisions of paragraph (b) of this  
88 section twelve may finance its share of the cost of the project by the issu-  
89 ance of notes, bonds or other obligations in the manner or mode of procedure  
90 provided by the local bond law constituting sections 40:1-1 to 40:1-88, in-  
91 clusive, of the local bond law, but without regard to and notwithstanding  
92 any limitations on the amount or percentage of indebtedness which any mu-  
93 nicipality may incur under said local bond law or any other law of the State.

1 12. Neither the commissioners nor any municipality shall have power to  
2 mortgage, pledge, encumber or otherwise dispose of any part of the sewer-  
3 age system, except that the commissioners may dispose of such part or  
4 parts thereof as may be no longer necessary for the purposes of the com-  
5 missioners. The provisions of this section shall be deemed to constitute a  
6 part of the contract with the holder of any bonds. All property of the  
7 commissioners shall be exempt from levy and sale by virtue of an execution  
8 and no execution or other judicial process shall issue against the same nor  
9 shall any judgment against the commissioners be a charge or lien upon its  
10 property; *provided, however*, that nothing herein contained shall apply to or  
11 limit the rights of the holder of any bonds to pursue any remedy for the  
12 enforcement of any pledge or lien given by the commissioners on its system  
13 revenues or other moneys.

1 13. Notwithstanding any restriction contained in any other law, the  
2 State and all public officers, municipalities, counties, political subdivisions  
3 and public bodies, and agencies thereof, all banks, bankers, trust companies,  
4 savings banks and institutions, building and loan associations, savings and

5 loan associations, investment companies, and other persons carrying on a  
6 banking business, all insurance companies, insurance associations and other  
7 persons carrying on an insurance business, and all executors, administrators,  
8 guardians, trustees and other fiduciaries, may legally invest any sinking  
9 funds, moneys or other funds belonging to them or within their control in  
10 any bonds, and such bonds shall be authorized security for any and all public  
11 deposits.

1 14. The sewerage system and all other property of the commissioners  
2 are hereby declared to be public property of a political subdivision of the  
3 State and devoted to an essential public and governmental function and pur-  
4 pose and shall be exempt from all taxes and special assessments of the  
5 State or any subdivision thereof. All bonds are hereby declared to be issued  
6 by a political subdivision of this State and for an essential public and gov-  
7 ernmental purpose and to be a public instrumentality and such bonds, and  
8 the interest thereon and the income therefrom, and all funds, income, system  
9 revenues and other moneys pledged or available to pay or secure the pay-  
10 ment of such bonds, or interest thereon, shall at all times be exempt from  
11 taxation except for estate and transfer inheritance taxes and taxes on trans-  
12 fers by or in contemplation of death.

1 15. The State of New Jersey does hereby pledge to and covenant and  
2 agree with the holders of any bonds that the State will not limit or alter  
3 the rights hereby vested in the commissioners to acquire, construct, main-  
4 tain, reconstruct and operate the sewerage system and to fulfill the terms of  
5 any agreement made with the holders of such bonds or other obligations,  
6 and will not in any way impair the rights or remedies of such holders, and  
7 will not modify in any way the exemptions from taxation provided for in this  
8 act, until the bonds, together with interest thereon, with interest on any un-  
9 paid installments of interest, and all costs and expenses in connection with  
10 any action or proceeding by or on behalf of such holders, are fully met and  
11 discharged.

1 16. The powers granted and duties imposed by this act are cumulative  
2 and are granted or imposed in addition to and not in substitution for exist-  
3 ing powers or duties of the commissioners or any municipality, and are not  
4 subject to any limitation or restriction prescribed by any other laws.

1 17. If any section, subsection, clause or provision of this act shall be  
2 adjudged unconstitutional or to be ineffective in whole or in part, to the  
3 extent that it is not adjudged unconstitutional or is not ineffective it shall  
4 be valid and effective and no other section, subsection, clause or provision of  
5 this act shall on account thereof be deemed invalid or ineffective, and the  
6 inapplicability or invalidity of any section, subsection, clause or provisions  
7 of this act in any one or more instances or under any one or more circum-  
8 stances shall not be taken to affect or prejudice in any way its applicability  
9 or validity in any other instance or under any other circumstance.

1 18. This act shall take effect immediately.

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#### STATEMENT

This bill is a measure vitally needed in order to protect the public health in and around the Passaic Valley. Its purpose and effect is stated in the title and in section one.

[OFFICIAL COPY REPRINT]  
COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 116**

**STATE OF NEW JERSEY**

ADOPTED MAY 21, 1953

AN ACT concerning the Passaic Valley Sewerage Commissioners and the sanitation facilities constructed or to be constructed by it, providing for the issuance of bonds and other obligations for financing such facilities, and prescribing powers and duties of said commissioners and of municipalities with respect thereto, and supplementing chapter fourteen of Title 58 of the Revised Statutes.

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

1 1. It has been ascertained by the Legislature of the State of New Jersey  
2 and is hereby declared: (a) that there is imperative need for repair, replace-  
3 ment and improvement of the sewerage system (hereinafter defined)  
4 operated by the commissioners (hereinafter defined), including particularly  
5 immediate enlargement and betterment of the sewage treatment and dis-  
6 posal works thereof; (b) that the existence of such need threatens the  
7 waters of the Passaic river and Newark bay with pollution, and  
8 failure or delay in meeting such need will jeopardize the health,  
9-10 safety and welfare of residents of the State and impair property and  
11 other economic values and, by reason of discharge of effluent from the  
12 sewerage system in waters of New York bay, will harm the relations of the  
13 State with other States and with public health agencies: (c) that such need  
14 arises principally from the long, continuous and heavy use made and being

15 made of the sewerage system since its operation began in one thousand  
 16 nine hundred and twenty-four, the impracticability during such use of mak-  
 17 ing on an annual or any other periodic basis the alterations and improve-  
 18 ments required in order to provide for the increase of population and the  
 19 rise in acceptable standards for sewage treatment and disposal, and the  
 20 damage, wear and tear, depreciation and obsolescence incident to such use;  
 21 (d) that the expense of meeting such need and providing such repair,  
 22 replacement and improvement, together with any amortization or interest  
 23 charges in connection with such expense, is in substance and effect part of  
 24 the cost of maintenance, repair and operation of the sewerage system;  
 25 (e) that the provisions of the statutes and of contracts made or to be made  
 26 pursuant thereto whereby the contracting municipalities (hereinafter defined)  
 27 or the commissioners could raise funds to meet such expense in the amounts  
 28 required are not sufficiently flexible and are impracticable, and application  
 29 thereof would result in oppressive or inequitable taxation to meet such  
 30 expense; and (f) that it is necessary, as in this act provided, to afford a  
 31 practical means of relief in the premises and to permit and require the con-  
 32 tracting municipalities as users of the sewerage system to meet and pay the  
 33 expense of meeting such need on an economical and reasonable basis over a  
 34 reasonable number of years.

1       2. As used in this act, unless a different meaning clearly appears from  
 2 the context:

3       (a) "Original act" shall mean chapter fourteen of Title 58 of the Re-  
 4 vised Statutes (section 58:14-1, et seq.) and the acts continued thereby and  
 5 the acts heretofore adopted amendatory thereof or supplemental thereto:

6       (b) "Commissioners" shall mean the Passaic Valley Sewerage Com-  
 7 missioners, the body politic and corporate of the State of New Jersey ap-  
 8 pointed, organized, created and existing pursuant to the original act:

9       (c) "Sewerage system" shall mean the Passaic Valley intercepting  
 10 sewer together with its branches and appurtenances and all plants, struc-  
 11 tures and other real and tangible personal property acquired, constructed

12 or operated by the commissioners and such other plants, structures and other  
13 real and tangible personal property as may be acquired or constructed by the  
14 commissioners pursuant to this act;

15 (d) "Municipality" shall mean any city of any class, any borough,  
16 village, town, township, or any other municipality other than a county or a  
17 school district;

18 (e) "Contracting municipality" shall mean any municipality entitled to  
19 rights in and use of the sewerage system by virtue of contributions hereto-  
20 fore made by it to the commissioners toward the costs of construction of the  
21 sewerage system pursuant to the provisions of the original act and any con-  
22 tract heretofore made between the commissioners and one or more munici-  
23 palities with respect to such construction and contributions;

24 (f) "Governing body" shall mean the commission, council, board or  
25 body, by whatever name it may be known, having charge of the finances of a  
26 municipality;

27 (g) "Project" shall mean any alteration, addition or modification to the  
28 trunk sewer, disposal works, treatment works, dispersal field pumping sta-  
29 tion, structures, equipment and appurtenances located southerly and easterly  
30 of Wilson Avenue and Avenue P in the city of Newark, New Jersey, which  
31 alteration, addition or modification is deemed by the commissioner to be neces-  
32 sary or desirable and comprises only rehabilitation of the dispersal field,  
33 rehabilitation and modernization of the sedimentation basins, construction of  
34 new grit chambers, bar racks and fine screens, rehabilitation or modernization  
35 or electrification of the pumping station and equipment with or without in-  
36 stallation of additional pump units or direct-connected Diesel pump units or  
37 electrical substations, construction of necessary enclosing buildings, and mis-  
38 cellaneous repairs and reconstruction necessary in connection with the fore-  
39 going.

40 (h) "Bonds" shall mean bonds or other obligations of the commission-  
41 ers issued pursuant to this act; and

42 (i) "System revenues" shall mean the moneys paid or required to be  
43 paid by any contracting municipality or any other user of the sewerage sys-  
44 tem to the commissioners on account of the cost of maintenance, repair and  
45 operation of the sewerage system.

1 3. For the purpose of carrying out any of said projects the commission-  
2 ers shall have the power, in addition to the powers granted by the original  
3 act, to own, maintain, repair, reconstruct, operate and use the sewerage sys-  
4 tem and, to that end, to acquire, by purchase, gift, condemnation or otherwise,  
5 and, to construct, maintain, repair, reconstruct, operate and use all plants,  
6 structures, equipment and facilities, and other real and personal property,  
7 deemed necessary for, or incident to, any of said projects; and for said pur-  
8 pose only the commissioners may enter into any contracts, execute all instru-  
9 ments, and do all things necessary or convenient to carry out any power ex-  
10 pressly given in this act.

1 4. The commissioners shall be or continue to be a public body politic and  
2 corporate established as an instrumentality exercising public and essential  
3 governmental functions to provide for the public health and welfare and  
4 shall have the power, in its own name and on its own behalf, to acquire,  
5 hold, use and dispose of its system revenues and other moneys, and to  
6 provide for and secure the payment of any bonds and the rights of the  
7 holders thereof.

1 5. (a) For the purpose of raising funds to pay the cost of any of the  
2 projects, as defined in section one of this act, or any part of said projects,  
3 the commissioners shall have power from time to time to authorize and pro-  
4 vide for the issuance of its bonds pursuant to this act in an aggregate  
5 principal amount not exceeding ten million dollars (\$10,000,000.00). Such  
6 bonds shall be authorized by and be issued pursuant to a resolution or  
7 resolutions (in this act sometimes referred to as "bond resolution") of the  
8 commissioners which shall (1) describe the project or projects in brief and  
9 general terms sufficient for reasonable identification, and (2) state the amount  
10 of bonds authorized thereby. There shall be included in such cost of such  
11 project or projects such amounts as the commissioners shall deem necessary

12 or advisable to provide for the cost of issuance of bonds, of financial, legal,  
13 and accounting services and advice, for engineering, inspection, and profes-  
14 sional costs, and for all such other expenses as may be necessary and incident  
15 to the financing, acquisition, construction and completion of such project or  
16 projects and the placing of the same in operation.

17 (b) After adoption of a bond resolution, the commissioners shall (1)  
18 cause copy thereof, certified by its secretary, and a notice of the date, time  
19 and place of the hearing hereinafter mentioned to be mailed to the governing  
20 body of each contracting municipality; (2) cause such notice to be published  
21 at least once in a newspaper of general circulation published in the city of  
22 Newark, New Jersey; and (3) not sooner than thirty days after such publica-  
23 tion and after such mailing, hold a public hearing in the Passaic Valley  
24 Sewerage District on said bond resolution at which any contracting munici-  
25 pality may appear in person or by agent or attorney and be heard with respect  
26 thereto. Said bond resolution shall take effect on the thirtieth day after the  
27 conclusion of such public hearing unless prior to such thirtieth day the  
28 governing bodies of contracting municipalities shall have caused to be filed  
29 with the secretary of the commissioners copies, certified by their respective  
30 clerks, of resolutions adopted by such governing bodies respectively object-  
31 ing to said bond resolution and it shall appear that the contracting munici-  
32 palities on behalf of which such objecting resolutions were adopted paid  
33 twenty-five per centum (25%) or more of the total amount of moneys received  
34 by the commissioners from contracting municipalities during the calendar year  
35 ending on the last day of December next preceding the date of such public  
36 hearing.

37 (c) Upon the taking effect of a bond resolution, the commissioners shall  
38 have power to incur indebtedness, borrow money and issue its bonds for the  
39 purpose or respective purposes described therein. Such bonds shall be  
40 authorized by the bond resolution and may be issued in one or more series  
41 and shall bear such date or dates, mature at such time or times not exceeding  
42 forty years from the date thereof, bear interest at such rate or rates not  
43 exceeding six per centum (6%) per annum, be in such denomination or

44 denominations, be in such form, either coupon or registered, carry such  
45 conversion or registration privileges, have such rank or priority, be executed  
46 in such manner, be payable from such sources in such medium of payment  
47 at such place or places within or without the State, and be subject to such  
48 terms of redemption (with or without premium) as the bond resolution may  
49 provide.

50 (d) Bonds of the commissioners shall be sold by the commissioners at  
51 public sale not less than six nor more than forty days after notice of such  
52 sale has been published at least once in a newspaper published in the city  
53 of Newark and in a financial newspaper published and circulating in New  
54 York City, which shall state the terms of sale as determined by the com-  
55 missioners. The bonds shall be sold at such a price that the interest cost  
56 to maturity of the money received for any issue of bonds (computed accord-  
57 ing to standard tables of bond values) shall not exceed six per centum (6%)  
58 per annum and at such public sale shall be awarded upon the proposal offer-  
59 ing the lowest such interest cost.

1 6. After the taking effect of a bond resolution, the commissioners may  
2 cause to be published in a newspaper of general circulation published in the  
3 city of Newark the title of said bond resolution together with a notice stat-  
4 ing the date of its adoption and also the date of the first publication of such  
5 notice and also that any action or proceeding of any kind or nature in any  
6 court questioning the validity of the creation and establishment of the com-  
7 missioners, or the validity or proper authorization of the bonds provided  
8 for by said bond resolution, or the validity of this act or of any obligations,  
9 covenants, agreements or contracts provided for by this act or said bond  
10 resolution shall be commenced within twenty days after the first publication  
11 of such notice. If no such action or proceeding shall be commenced or insti-  
12 tuted within twenty days after the first publication of such notice, then all  
13 contracting municipalities and residents and taxpayers and owners of prop-  
14 erty therein and all other persons whatsoever shall be forever barred and  
15 foreclosed from instituting or commencing any action or proceeding in any

16 court, and from pleading in any action or proceeding any defense, question-  
17 ing the validity of the creation and establishment of the commissioners, the  
18 validity or proper authorization of such bonds, or the validity of this act or  
19 of any such obligations, covenants, agreements or contracts, and all such  
20 bonds, obligations, covenants, agreements and contracts shall be conclusively  
21 deemed to be valid and binding obligations in accordance with their terms  
22 and tenor.

1 7. Any provision of any law to the contrary notwithstanding, any bond  
2 or other obligation issued pursuant to this act shall be fully negotiable within  
3 the meaning and for all purposes of the negotiable instruments law of the  
4 State, and each holder or owner of such a bond or other obligation, or of any  
5 coupon appurtenant thereto, by accepting such bond or coupon shall be con-  
6 clusively deemed to have agreed that such bond, obligation or coupon is and  
7 shall be fully negotiable within the meaning and for all purposes of said ne-  
8 gotiable instruments law.

1 8. Any bond resolution of the commissioners authorizing the issuance  
2 of any bonds may contain provisions, which regardless of the time of issu-  
3 ance thereof shall be a part of the contract with the holder thereof, as to:

4 (a) the custody, security, use expenditure or application of the proceeds  
5-6 of the bonds;

7 (b) payment of the principal of or interest on the bonds, or any other  
8 obligations, and the sources and methods thereof, the rank or priority of any  
9 such bonds or obligations as to any lien or security;

10 (c) the use and disposition of any moneys of the commissioners;

11 (d) pledging, setting aside, depositing or trusteeing all or any part of  
12 the system revenues or other moneys or any contracts of the commission-  
13 ers to secure the payment of the principal of or interest on the bonds or any  
14 other obligations, or the payment of expenses of operation or maintenance  
15 of the sewerage system, and the powers and duties of any trustee with re-  
16 gard thereto;

17 (e) the setting aside out of the system revenues or other moneys of  
18 the commissioners of reserves and sinking funds, and the source, custody,  
19 security, regulation, application and disposition thereof;

20 (f) System revenues and the rents, rates, fees, or other charges for  
21 connection with or the use or services of the sewerage system;

22 (g) vesting in a trustee or trustees such property, rights, powers and  
23 duties in trust as the commissioners may determine which may include any  
24 or all of the rights, powers and duties of the trustee appointed by the hold-  
25 ers of bonds pursuant to section ten of this act, and limiting or abrogating  
26 the right of such holders to appoint a trustee pursuant to section ten of this  
27 act or limiting the rights, duties and powers of such trustee;

28 (h) payment of costs or expenses incident to the enforcement of the  
29 bonds or of the provisions of the bond resolution or of any covenant or con-  
30 tract with the holders of the bonds;

31 (i) the procedure, if any, by which the terms of any covenant or con-  
32 tract with, or duty to, the holders of bonds may be amended or abrogated.  
33 the amount of bonds the holders of which must consent thereto, and the  
34 manner in which such consent may be given or evidenced.

1 9. (a) The provisions of this section shall be applicable to a series of  
2 bonds authorized or issued under this act only if the bond resolution of the  
3 commissioners authorizing or providing for the issuance of such bonds, or  
4 an amendment thereof, shall provide in substance that the holders of the  
5 bonds of such series shall be entitled to the benefits, and be subject to the  
6 provisions of this section.

7 (b) In the event that there shall be a default in the payment of princi-  
8 pal or interest on any bonds of such series after the same shall become  
9 due, whether at maturity or upon call for redemption, and such default  
10 shall continue for a period of thirty days, or in the event that the commis-  
11 sioners shall fail or refuse to comply with the provisions of this act or shall  
12 fail or refuse to carry out and perform the terms of any contract with the  
13 holders of any of such bonds, and such failure or refusal shall continue for

14 a period of ninety days after written notice to the commissioners of its exist-  
15 ence and nature, the holders of twenty-five per centum (25%) in aggregate  
16 principal amount of the bonds of such series then outstanding by instrument  
17 or instruments filed in the office of the Secretary of State and proved or  
18 acknowledged in the same manner as a deed to be recorded, may appoint a  
19 trustee to represent the holders of the bonds of such series for the purposes  
20 provided in this section.

21 (c) Such trustee may and upon written request of the holders of twenty-  
22 five per centum (25%) in aggregate principal amount of the bonds of such  
23 series then outstanding shall, in his or its own name:

24 (1) By action, suit or proceeding in the nature of mandamus, in-  
25 junction, certiorari or otherwise, enforce all rights of the holders of such  
26 bonds, including the right to require the commissioners to charge and  
27 collect system revenues and other charges adequate to carry out any  
28 contract as to, or pledge of, such moneys, and to require the commis-  
29 sioners to carry out and perform the terms of any contract with the  
30 holders of such bonds or its duties under this act;

31 (2) Bring action upon all or any part of such bonds or interest cou-  
32 pons or claims appurtenant thereto;

33 (3) By action, suit or other proceeding, as if in equity, require the  
34 commissioners to account as if it were the trustee of an express trust  
35 for the holders of such bonds;

36 (4) By action, suit or other proceeding, as if in equity, enjoin any  
37 acts or things which may be unlawful or in violation of the rights of the  
38 holders of such bonds.

39 (d) Such trustee shall, in addition to the foregoing, have and possess all  
40 of the powers necessary or appropriate for the exercise of the functions  
41 specifically set forth herein or incident to the general representation of the  
42 holders of bonds of such series in the enforcement and protection of their  
43 rights.

43A (e) In any action, suit or other proceeding by such trustee, the fees,  
44 counsel fees and expenses of the trustee shall constitute taxable costs and  
45 disbursements, and all costs and disbursements, allowed by the court, shall be  
46 a first charge upon any system revenues of the commissioners pledged for  
47 the payment or security of bonds of such series.

1 10. Neither the members of the commission nor any person execut-  
2 ing bonds issued pursuant to this act shall be liable personally on the bonds  
3 by reason of the issuance thereof. Bonds or other obligations issued pursu-  
4 aut to this act shall not be in any way a debt or liability of the State or of  
5 any county or municipality and shall not create or constitute any indebted-  
6 ness, liability or obligation of the State or of any such county or municipality,  
7 either legal, moral or otherwise, and nothing in this act contained shall be  
8 construed to authorize the commissioners to incur any indebtedness on be-  
9 half of or in any way to obligate the State or any county or municipality.

1 11. (a) For all purposes of the original act, and of any contract made  
2 or hereafter made thereunder or for the purposes thereof, the cost and ex-  
3 pense of maintenance, repair and operation of the sewerage system for any  
4 year (as herein referred to and described) shall be apportioned annually  
5 among the contracting municipalities and other users thereof in proportion  
6 to the amount of sewage by them respectively delivered and discharged into  
7 the sewerage system and, except as provided in subsequent paragraphs of  
8 this section, shall be deemed to include, and shall include, in addition to all  
9 other items heretofore included, all interest becoming due prior to the end of  
10 such year on bonds or other obligations of the commissioners issued pursu-  
11 ant to this act, plus the principal of any such bonds or obligations becoming  
12 due, recalled for redemption, prior to the end of such year, and redemption  
13 premium (if any) plus such sums as the commissioners may determine or  
14 by the terms of any contract be required to set aside during such year as  
15 a reserve for payment or security of principal of or interest on any such  
16 bonds or obligations or be by the terms of any contract required to set aside  
17 during such year as a reserve for any other purpose. The contracting mu-

18 municipalities and other users of the sewerage system are hereby authorized  
19 and directed to do and perform any and all acts and things necessary, con-  
20 venient or desirable to pay to the commissioners annually the total cost and  
21 expense (as herein referred to and described) of maintenance, repair and op-  
22 eration of the sewerage system apportioned as above provided. If any pay-  
23 ment on account of the cost and expense (as herein referred to and described)  
24 of maintenance, repair and operation of the sewerage system, or any part  
25 thereof, due to the commissioners under the original act or any such contract  
26 from a contracting municipality or other user shall remain unpaid for thirty  
27 days after the commissioners have notified such contracting municipality or  
28 other user by mail of the amount due and the due date, such contracting mu-  
29 nicipality or other user shall be charged with and shall pay to the commis-  
30 sioners interest on the amount unpaid from thirty days after such notice of  
31 the commissioners was mailed until paid, at the rate of six per centum (6%)  
32 per annum. Every obligation assumed by or imposed upon any contracting  
33 municipality or other user by the original act or any such contract or this  
34 act shall be enforceable by the commissioners by appropriate action, suit or  
35 proceeding, and the commissioners may have and pursue any and all rem-  
36 edies provided by law for the enforcement of such obligation.

37 (b) The provisions of paragraph(a) of this section eleven shall not apply  
38 in the case of any contracting municipality which (1) at or before the end of  
39 the public hearing on a bond resolution provided for by paragraph (b) of sec-  
40 tion five files a written declaration or intention with the commissioners stating  
41 that said contracting municipality intends itself to finance all or any part  
42 of its share of the cost of any project or any part thereof to the financing  
43 of which said bond resolution relates, (2) prior to the publication of the  
44 notice of sale of bonds provided for in paragraph (d) of section five enters  
45 into an agreement relating to such bonds with the commissioners establishing  
46 a just and equitable formula pursuant to which annual adjustments shall be  
47 made in amounts due to the commissioners on account of the issuance of  
48 such bonds and to such contracting municipality on account of the payment

49. of said share, as hereinafter determined, in the event of and as a result of  
50 any increase or decrease in the proportionate share of such contracting mu-  
51 nicipality in the cost and expense of maintenance, repair and operation of  
52 the sewerage system and (3) pays said share, as hereinafter determined, to  
53 the commissioners not later than thirty days after the commissioners shall  
54 have sold the bonds, as provided in paragraph (e) of section five, for the pur-  
55 pose of financing any project. Any contracting municipality which does not  
56 file a declaration of intention with, or does not pay its share to, the commis-  
57 sioners in accordance with the foregoing provision, shall be subject to the  
58 provisions of paragraph (a) of this section but shall not be barred from fil-  
59 ing a declaration of intention with regard to any subsequent project.

60 (c) The share of any contracting municipality filing such a declaration  
61 of intention shall be determined and apportioned, for purposes of computing  
62 the payment to be made to the commissioners as provided in paragraph (b)  
63 of this section, on the basis of its proportionate share of the cost and ex-  
64 pense of such maintenance, repair and operation for the year next preced-  
65 ing the year of adoption of the bond resolution. The share of any contract-  
66 ing municipality filing such declaration of intention and making such payment  
67 shall thereafter be determined and apportioned in the same manner and  
68 mode of procedure by which its share of any other cost and expense of main-  
69 tenance, repair and operation of the sewerage system was determined in and  
70 for any year prior to the adoption of the bond resolution under the terms of  
71 the original act and any contract between such contracting municipality  
72 and the commissioners made thereunder or for the purpose of the original  
73 act, and the share of such a contracting municipality shall be increased or  
74 decreased only if its proportionate share of any other cost and expense of  
75 maintenance, repair and operation of the sewerage system is increased or  
76 decreased (as the case may be) under the original act and any such con-  
77 tract between such contracting municipality and the commissioners made  
78 thereunder or for the purposes of the original act by reason of the amount  
79 of sewage actually delivered or discharged into the sewerage system. The

80 obligation of any contracting municipality to pay its share as stated in a  
81 declaration of intention and its obligation to pay any additional amount  
82 shall be enforceable in the same manner as any other obligation assumed  
83 by or imposed upon any contracting municipality by the original act or any  
84 contract made thereunder or for the purpose of the original act, or by this  
85 act.

86 (d) Any contracting municipality filing a written declaration of inten-  
87 tion with the commissioners under the provisions of paragraph (b) of this  
88 section twelve may finance its share of the cost of the project by the issu-  
89 ance of notes, bonds or other obligations in the manner or mode of procedure  
90 provided by the local bond law constituting sections 40:1-1 to 40:1-88, in-  
91 clusive, of the local bond law, but without regard to and notwithstanding  
92 any limitations on the amount or percentage of indebtedness which any mu-  
93 nicipality may incur under said local bond law or any other law of the State.

1 12. Neither the commissioners nor any municipality shall have power to  
2 mortgage, pledge, encumber or otherwise dispose of any part of the sewer-  
3 age system, except that the commissioners may dispose of such part or  
4 parts thereof as may be no longer necessary for the purposes of the com-  
5 missioners. The provisions of this section shall be deemed to constitute a  
6 part of the contract with the holder of any bonds. All property of the  
7 commissioners shall be exempt from levy and sale by virtue of an execution  
8 and no execution or other judicial process shall issue against the same nor  
9 shall any judgment against the commissioners be a charge or lien upon its  
10 property; *provided, however*, that nothing herein contained shall apply to or  
11 limit the rights of the holder of any bonds to pursue any remedy for the  
12 enforcement of any pledge or lien given by the commissioners on its system  
13 revenues or other moneys.

1 13. Notwithstanding any restriction contained in any other law, the  
2 State and all public officers, municipalities, counties, political subdivisions  
3 and public bodies, and agencies thereof, all banks, bankers, trust companies,  
4 savings banks and institutions, building and loan associations, savings and

5 loan associations, investment companies, and other persons carrying on a  
6 banking business, all insurance companies, insurance associations and other  
7 persons carrying on an insurance business, and all executors, administrators,  
8 guardians, trustees and other fiduciaries, may legally invest any sinking  
9 funds, moneys or other funds belonging to them or within their control in  
10 any bonds, and such bonds shall be authorized security for any and all public  
11 deposits.

1 14. The sewerage system and all other property of the commissioners  
2 are hereby declared to be public property of a political subdivision of the  
3 State and devoted to an essential public and governmental function and pur-  
4 pose and shall be exempt from all taxes and special assessments of the  
5 State or any subdivision thereof. All bonds are hereby declared to be issued  
6 by a political subdivision of this State and for an essential public and gov-  
7 ernmental purpose and to be a public instrumentality and such bonds, and  
8 the interest thereon and the income therefrom, and all funds, income, system  
9 revenues and other moneys pledged or available to pay or secure the pay-  
10 ment of such bonds, or interest thereon, shall at all times be exempt from  
11 taxation except for estate and transfer inheritance taxes and taxes on trans-  
12 fers by or in contemplation of death.

1 15. The State of New Jersey does hereby pledge to and covenant and  
2 agree with the holders of any bonds that the State will not limit or alter  
3 the rights hereby vested in the commissioners to acquire, construct, main-  
4 tain, reconstruct and operate the sewerage system and to fulfill the terms of  
5 any agreement made with the holders of such bonds or other obligations,  
6 and will not in any way impair the rights or remedies of such holders, and  
7 will not modify in any way the exemptions from taxation provided for in this  
8 act, until the bonds, together with interest thereon, with interest on any un-  
9 paid installments of interest, and all costs and expenses in connection with  
10 any action or proceeding by or on behalf of such holders, are fully met and  
11 discharged.

1 16. The powers granted and duties imposed by this act are cumulative  
2 and are granted or imposed in addition to and not in substitution for exist-  
3 ing powers or duties of the commissioners or any municipality, and are not  
4 subject to any limitation or restriction prescribed by any other laws.

1 17. If any section, subsection, clause or provision of this act shall be  
2 adjudged unconstitutional or to be ineffective in whole or in part, to the  
3 extent that it is not adjudged unconstitutional or is not ineffective it shall  
4 be valid and effective and no other section, subsection, clause or provision of  
5 this act shall on account thereof be deemed invalid or ineffective, and the  
6 inapplicability or invalidity of any section, subsection, clause or provisions  
7 of this act in any one or more instances or under any one or more circum-  
8 stances shall not be taken to affect or prejudice in any way its applicability  
9 or validity in any other instance or under any other circumstance.

1 18. This act shall take effect immediately.