

40:14A-8

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:14A-8; 40:14B-23; 40:66A-8; (Utility services--local authorities--rate
40:66A-41 adjustments notice and hearing requirements)

LAWS 1981 CHAPTER 125

Bill No. S262

Sponsor(s) A. Russo

Date Introduced Pre-filed

Committee: Assembly Transportation and Communications

Senate County and Municipal Government

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Oct. 16, 1980

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Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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SENATE, No. 262

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senator A. RUSSO

AN ACT concerning the imposition of rate adjustments by certain county and municipal authorities and amending P. L. 1946, c. 138, P. L. 1957, c. 183, P. L. 1948, c. 348 and P. L. 1968, c. 249.

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

1 1. Section 8 of P. L. 1946, c. 138 (C. 40:14A-8) is amended to
2 read as follows:

3 8. (a) Every sewerage authority is hereby authorized to charge
4 and collect rents, rates, fees or other charges (in this act sometimes
5 referred to as "service charges") for direct or indirect connection
6 with, or the use or services of, the sewerage system. Such service
7 charges may be charged to and collected from any person contract-
8 ing for such connection or use or services or from the owner or
9 occupant, or both of them, of any real property which directly or
10 indirectly is or has been connected with the system or from or on
11 which originates or has originated sewage or other wastes which
12 directly or indirectly have entered or may enter the sewerage sys-
13 tem, and the owner of any such real property shall be liable for
14 and shall pay such service charges to the sewerage authority at the
15 time when the place where such service charges are due and
16 payable.

17 (b) Rents, rates, fees and charges, which may be payable pe-
18 riodically, being in the nature of use or service charges, shall
19 as nearly as the sewerage authority shall deem practicable and
20 equitable be uniform throughout the district for the same type,
21 class and amount of use or service of the sewerage system, and
22 may be based or computed either on the consumption of water on
23 or in connection with the real property, making due allowance for

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

24 commercial use of water, or on the number and kind of water out-
25 lets on or in connection with the real property, or on the number
26 and kind of plumbing or sewerage fixtures or facilities on or in
27 connection with the real property, or on the number of persons
28 residing or working on or otherwise connected or identified with
29 the real property, or on the capacity of the improvements on or
30 connected with the real property, or on any other factors deter-
31 mining the type, class and amount of use or service of the sewerage
32 system, or on any combination of any such factors, and may give
33 weight to the characteristics of the sewage and other wastes and
34 any other special matter affecting the cost of treatment and dis-
35 posal thereof, including chlorine demand, biochemical oxygen
36 demand, concentration of solids and chemical composition. In
37 addition to any such periodic service charges, a separate charge in
38 the nature of a connection fee or tapping fee, in respect of each
39 connection of any property with the sewerage system may be im-
40 posed upon the person making such connection or upon the owner
41 or occupant of the property so connected. Such connection charges
42 shall be uniform within each class of users but the amount thereof
43 shall otherwise be entirely within the discretion of the authority
44 in order that the combination of such connection fee or tapping fee
45 and the aforesaid periodic service charges shall meet the require-
46 ments of subsection (c) hereof; provided, however, that in assess-
47 ing any such connection charges, the sewerage authority shall give
48 credit in every instance to the owner or occupant of any property
49 wherein or whereon any action or improvement has been taken or
50 effectuated, in accordance with such reasonable specifications as
51 may be prescribed by the sewerage authority, which results in a
52 reduction of the costs actually incurred by the sewerage authority
53 in making such connection below such costs actually incurred in
54 making such connections to property wherein or whereon no such
55 action or improvement has been taken or effectuated. The amount
56 of any such credit shall be equal to the percentage difference
57 between the costs actually incurred by the sewerage authority in
58 making such connection to a property wherein or whereon such an
59 action or improvement has been taken or effectuated, and the
60 average during the immediately preceding year of such costs
61 actually incurred by the sewerage authority in making such con-
62 nections to property wherein or whereon no such action or improve-
63 ment has been taken or effectuated.

64 (c) The sewerage authority shall prescribe and from time to
65 time when necessary revise a schedule of such service charges,
66 which shall comply with the terms of any contract of the sewerage

67 authority and in any event shall be such that the revenues of the
 68 sewerage authority will at all times be adequate to pay all expenses
 69 of operation and maintenance of the sewerage system, including
 70 reserves, insurance, extensions, and replacements, and to pay
 71 punctually the principal of and interest on any bonds and to main-
 72 tain such reserves or sinking funds therefor as may be required
 73 by the terms of any contract of the sewerage authority or as may
 74 be deemed necessary or desirable by the sewerage authority. Said
 75 schedule shall thus be prescribed and from time to time revised
 76 by the sewerage authority after public hearing thereon which shall
 77 be held by the sewerage authority at least 7 days after [such pub-
 78 lished notice as the sewerage authority may determine to be
 79 reasonable] *publication of notice of the proposed adjustment of*
 80 *the service charges and *of the time and place* of the public hearing*
 81 *in at least two newspapers of general circulation in the area*
 82 *serviced by the authority. The sewerage authority shall *[give*
 83 *testimony]* *provide evidence* at the hearing showing that the*
 84 *proposed adjustment of the service charges is *[just]* *necessary**
 85 *and reasonable, **and shall provide the opportunity for cross-*
 85A *examination of persons offering such evidence,** and a transcript*
 86 *of the hearing shall be made and a copy thereof shall be available*
 87 *upon request to any interested party at a reasonable fee. The*
 88 sewerage authority shall likewise fix and determine the time or
 89 times when and the place or places where such service charges
 90 shall be due and payable and may require that such service charges
 91 shall be paid in advance for periods of not more than 1 year.
 92 A copy of such schedule of service charges in effect shall at all times
 93 be kept on file at the principal office of the sewerage authority and
 93A shall at all reasonable times be open to public inspection.

94 (d) Any county sewerage authority may establish sewerage
 95 regions in portions of the district. Rent, rates, fees and charges
 96 which may be payable periodically, being in the nature of use or
 97 service charges, shall as nearly as the sewerage authority shall
 98 deem practical and equitable, be uniform throughout the district
 99 for the same type, class and amount of use or service of the sewage
 100 systems and shall meet all other requirements of subsection (b)
 101 hereof.

1 2. Section 23 of P. L. 1957, c. 183 (C. 40:14B-23) is amended
 2 to read as follows:

3 23. Every municipal authority shall prescribe and from time to
 4 time when necessary revise a schedule of all its service charges,
 5 which may provide a single rent, rate, fee or charge for any of its
 6 utility charges and which shall comply with the terms of any con-

7 tract of the municipal authority and may be such that the revenues
 8 of the municipal authority will at all times be adequate to pay the
 9 expenses of operation and maintenance of the utility system, in-
 10 cluding reserves, insurance, extensions, and replacements, and to
 11 pay the principal of and interest on any bonds and to maintain
 12 such reserves or sinking funds therefor as may be required by the
 13 terms of any contract of the municipal authority or as may be
 14 deemed necessary or desirable by the municipal authority. Said
 15 schedule shall thus be prescribed and from time to time revised
 16 by the municipal authority after public hearing thereon which shall
 17 be held by the municipal authority at least 7 days after [such
 18 published notice as the municipal authority may determine to be
 19 reasonable] *publication of notice of the proposed adjustment of the*
 20 *service charges and *of the time and place* of the public hearing*
 21 *in at least two newspapers of general circulation in the area*
 22 *serviced by the authority. The municipal authority shall * [give*
 23 *testimony] * provide evidence* at the hearing showing that the*
 24 *proposed adjustment of the service charges is * [just] * necessary**
 25 *and reasonable, **and shall provide the opportunity for cross-*
 25A *examination of persons offering such evidence,** and a transcript*
 26 *of the hearing shall be made and a copy thereof shall be available*
 27 *upon request to any interested party at a reasonable fee. The munic-*
 28 *ipal authority shall likewise fix and determine the time or times*
 29 *when and the place or places where such service charges shall be*
 30 *due and payable and may require that such service charges shall be*
 31 *paid in advance for periods of not more than 1 year. A copy of such*
 32 *schedule of service charges in effect shall at all times be kept on*
 33 *file at the principal office of the municipal authority and shall at*
 34 *all reasonable times be open to public inspection.*

1 3. Section 8 of P. L. 1948, c. 348 (C. 40:66A-8) is amended to
 2 read as follows:

3 8. (a) Every incinerator authority is hereby authorized to
 4 charge and collect rents, rates, fees or other charges (in this act
 5 sometimes referred to as "service charges") for the services and
 6 facilities of the garbage disposal system.

7 (b) Such rents, rates, fees and charges, being in the nature of
 8 use or service charges, shall as nearly as the incinerator authority
 9 shall deem practicable and equitable be uniform throughout the
 10 district for the same type, class and amount of use or service of the
 11 garbage disposal system.

12 (c) The incinerator authority shall prescribe and from time to
 13 time when necessary revise and schedule of such service charges,
 14 which in any event shall be such that the revenues of the incinerator

15 authority will at all times be adequate to pay all expenses of opera-
 16 tion and maintenance of the garbage disposal system, including
 17 reserves, insurance, extensions, and replacements, and to pay
 18 punctually the principal of and interest on any bonds and to main-
 19 tain such reserves or sinking funds therefor as may be required by
 20 the terms of any contract of the incinerator authority. Said schedule
 21 shall thus be prescribed and from time to time revised by the in-
 22 cinerator authority after public hearing thereon which shall be held
 23 by the incinerator authority at least 7 days after [such pub-
 24 lished notice as the incinerator authority may determine to be
 25 reasonable] *publication of notice of the proposed adjustment of the*
 26 *service charges and *of the time and place* of the public hearing*
 27 *in at least two newspapers of general circulation in the area*
 28 *serviced by the authority. The incinerator authority shall *[give*
 29 *testimony]* *provide evidence* at the hearing showing that the*
 30 *proposed adjustment of the service charges is *[just]* *necessary**
 31 *and reasonable, **and shall provide the opportunity for cross-*
 32 *examination of persons offering such evidence,** and a transcript*
 32A *of the hearing shall be made and a copy thereof shall be available*
 33 *upon request to any interested party at a reasonable fee. The*
 34 incinerator authority shall likewise fix and determine the time or
 35 times when and the place or places where such service charges shall
 36 be due and payable and may require that such service charges shall
 37 be paid in advance for periods of not more than 1 year. A copy of
 38 such schedule of service charges in effect shall at all times be kept
 39 on file at the principal office of the incinerator authority and shall
 40 at all reasonable times be open to public inspection.

1 4. Section 8 of P. L. 1968, c. 249 (C. 40:66A-41) is amended to
 2 read as follows:

3 8. Rents, rates, fees or other charges. (a) Every solid waste
 4 management authority is hereby authorized to charge and collect
 5 rents, rates, fees or other charges (in this act sometimes referred
 6 to as "service charges") for the services and facilities of the
 7 garbage and solid wastes disposal system.

8 (b) Such rents, rates, fees and charges, being in the nature of
 9 use or service charges, shall as nearly as the solid waste manage-
 10 ment authority shall deem practicable and equitable be uniform
 11 throughout the district for the same type, class and amount of use
 12 or service of the garbage and solid wastes disposal system.

13 (c) The solid waste management authority shall prescribe and
 14 from time to time when necessary revise the schedule of such
 15 service charges, which in any event shall be such that the revenues
 16 of the solid waste management authority will at all times be ade-

17 quate to pay all expenses of operation and maintenance of the
18 garbage and solid wastes disposal system including reserves, in-
19 surance, extensions, and replacements, and to pay punctually the
20 principal of and interest on any bonds and to maintain such re-
21 serves or sinking funds therefor as may be required by the terms
22 of any contract of the solid waste management authority. Said
23 schedule shall thus be prescribed and from time to time revised
24 by the solid waste management authority after public hearing
25 thereon which shall be held by the solid waste management au-
26 thority at least 7 days after [such published notice as the solid
27 waste management authority may determine to be reasonable]
28 *publication of notice of the proposed adjustment of the service*
29 *charges and *of the time and place* of the public hearing in at*
30 *least two newspapers of general circulation in the area serviced*
31 *by the authority. The solid waste management authority shall*
32 **[give testimony]* *provide evidence* at the hearing showing*
33 *that the proposed adjustment of the service charges is *[just]**
34 **necessary* and reasonable, **and shall provide the opportunity*
34A *for cross-examination of persons offering such evidence,** and a*
35 *transcript of the hearing shall be made and a copy thereof shall be*
36 *available upon request to any interested party at a reasonable fee.*
37 The solid waste management authority shall likewise fix and deter-
38 mine the time or times when and the place or places where such
39 service charges shall be due and payable and may require that such
40 service charges shall be paid in advance for periods of not more
41 than 1 year. A copy of such schedule of service charges in effect
42 shall at all times be kept on file at the principal office of the solid
43 waste management authority and shall at all reasonable times be
44 open to public inspection. It is the purpose of this subsection that
45 the rates fixed from time to time shall produce revenue not in
46 excess of an amount sufficient to provide for all expenses of
47 operation and maintenance of the authority, and to provide for
48 interest, sinking fund and amortization. Any surplus which may
49 accrue to the authority, however, for any reason whatsoever shall
50 be retained by the authority to reduce its rates to the extent such
51 surplus may justify, and to increase the quality and efficiency of
52 its operations.

1 5. This act shall take effect immediately.

23 schedule shall thus be prescribed and from time to time revised
 24 by the solid waste management authority after public hearing
 25 thereon which shall be held by the solid waste management au-
 26 thority at least 7 days after [such published notice as the solid
 27 waste management authority may determine to be reasonable]
 28 *publication of notice of the proposed adjustment of the service*
 29 *charges and of the public hearing in at least two newspapers of*
 30 *general circulation in the area serviced by the authority. The solid*
 31 *waste management authority shall give testimony at the hearing*
 32 *showing that the proposed adjustment of the service charges is just*
 33 *and reasonable, and a transcript of the hearing shall be made and*
 34 *a copy thereof shall be available upon request to any interested*
 35 *party at a reasonable fee. The solid waste management authority*
 36 *shall likewise fix and determine the time or times when and the place*
 37 *or places where such service charges shall be due and payable and*
 38 *may require that such service charges shall be paid in advance for*
 39 *periods of not more than 1 year. A copy of such schedule of service*
 40 *charges in effect shall at all times be kept on file at the principal*
 41 *office of the solid waste management authority and shall at all*
 42 *reasonable times be open to public inspection. It is the purpose of*
 43 *this subsection that the rates fixed from time to time shall produce*
 44 *revenue not in excess of an amount sufficient to provide for all*
 45 *expenses of operation and maintenance of the authority, and to*
 46 *provide for interest, sinking fund and amortization. Any surplus*
 47 *which may accrue to the authority, however, for any reason what-*
 48 *soever shall be retained by the authority to reduce its rates to the*
 49 *extent such surplus may justify, and to increase the quality and*
 50 *efficiency of its operations.*

1 5. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to establish more specific notice and hearing requirements for the imposition of rate adjustments by municipal and county authorities providing certain utility services. The authorities would be required to publish notice of any rate adjustment and give testimony at a public hearing thereon. In addition, the authority would be required to provide for and make available transcripts of any such hearing at a reasonable fee.

5262 (1981)

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 262

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 1980

Senate Bill No. 262 (Official Copy Reprint) establishes more specific notice and hearing requirements for the imposition of rate adjustments by county and municipal utility authorities than are presently required by law. Included under the bill are sewerage, water, incinerator and solid waste management authorities.

Current law requires these authorities to hold a public hearing on a proposed rate adjustment at least 7 days after such published notice as the authority may determine to be reasonable.

This legislation requires the following:

1. Publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority;
2. The authority shall provide evidence at the hearing showing that the adjustment is necessary and reasonable; and
3. Transcripts of the hearing shall be made and a copy shall be available upon request to any interested party at a reasonable fee.

In addition, the committee amended the bill so that each such authority shall provide the opportunity for cross-examination of persons offering evidence at the hearing showing that the adjustment is necessary and reasonable.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 262

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 1980

Senate Bill No. 262 would establish more specific notice and hearing requirements for the imposition of rate adjustments by county and municipal utility authorities. Included under the bill are sewerage, water, incinerator and solid waste management authorities.

Under current law these authorities are all required to hold a public hearing on a proposed rate adjustment "at least 7 days after such published notice as the authority may determine to be reasonable." The current law imposes no requirements as to what shall transpire at such a hearing.

Senate Bill No. 262, as introduced, would require:

1. Publication of notice of the proposed rate adjustment and of the public hearing in at least 2 newspapers generally circulating in the service area;
2. The authority to give "testimony" at the hearing showing that the adjustment is "just and reasonable;" and,
3. Transcripts of the hearing to be made and a copy to be made available to any interested party upon request and payment of a reasonable fee.

The Senate committee amendments specify that the published notice set forth the time and place of the public hearing. The amendments would delete the language requiring "testimony" by the authority that the adjustment is "just and reasonable" and substitute a requirement that the authority "provide evidence" that the adjustment is "necessary and reasonable."

FROM THE OFFICE OF THE GOVERNOR

27 APRIL 1981

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

S-262, sponsored by Senator Anthony Russo (D-Union) which augments the hearing process that certain municipal and county sewage, incinerator and waste management authorities must use prior to revising their rates and fees.

Current law merely requires that the authorities provide notice that they will hold public hearings at least seven days before revising their schedules of rates and fees.

This bill adds the following requirements:

--that the notice must list the proposed adjustments in service charges and the time and place of the hearing and must be published in at least two newspapers of general circulation in the area served by the authority;

--that the authority present evidence at the hearing to show that the proposed adjustments are "reasonable and necessary";

--that the public be provided with an opportunity to cross-examine those giving evidence;

--that a transcript of the hearing shall be made and a copy of that transcript be made available upon request and upon payment of a reasonable fee.

The bill is designed to strengthen the accountability of the authorities.

S-892, sponsored by Senator James Wallwork (R-Essex) which amends the state's Franchise Practices Act to prohibit oil company retaliation against a franchisee who sells alternate motor fuel.

The bill defines alternate motor fuel as diesel fuel or any liquid which is the product of the combination of motor gasoline and any other liquid or gaseous substance which is not a derivative of petroleum and which is used to operate a motor vehicle. Gasohol is included in this definition.

general authority to exercise full police powers to county police departments in counties of the second class.