

40A:31-1

to 40A:31-23

**LEGISLATIVE HISTORY CHECKLIST**

**NJSA:** 40A:31-1 to 40A:31-23

(Water supply facilities--financing--allow combinations of state & local governments)

**LAWS OF:** 1989

**CHAPTER:** 109

**Bill No:** A329

**Sponsor(s):** Frelinghuysen

**Date Introduced:** Pre-filed

**Committee: Assembly:** County & Municipal Government

**Senate:** County & Municipal Government

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

**Date of Passage: Assembly:** May 16, 1988

**Senate:** May 1, 1989

**Date of Approval:** June 29, 1989

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement: Assembly:** Yes

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** No- Yes

**Following were printed:**

**Reports:** No

**Hearings:** No

(over)

Report, referred to in statements:

974.90           New Jersey. County and Municipal Government Study Commission  
M966                 New Jersey's local infrastructure:  
1984c                 an assessment of needs. September, 1984.  
                       Trenton, 1984.

[SECOND REPRINT]

ASSEMBLY, No. 329

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman FRELINGHUYSEN

1 AN ACT permitting counties and municipalities, either  
2 separately or jointly with other counties or municipalities, or  
3 private water companies, or the State, to finance, construct,  
4 acquire and operate water supply facilities, repealing various  
5 sections of statutory law, enacting chapter 31 of Title 40A of  
6 the New Jersey Statutes, and amending P.L.1983, c.111.

7

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

10 1.

11

TITLE 40A

CHAPTER 31

12

COUNTY AND MUNICIPAL WATER SUPPLY

13

40A:31-1. Short Title.

14

40A:31-2. Legislative purpose.

15

40A:31-3. Definitions.

16

40A:31-4. Acquisition, construction or operation of water  
supply facilities by one or more local units.

17

40A:31-5. Powers.

18

40A:31-6. Surveys, maps and other costs; reimbursement from  
bond funds.

19

40A:31-7. Property damaged; repair, restoration or  
compensation.

20

40A:31-8. Relocation of public utility property.

21

40A:31-9. Bonds and security therefor.

22

40A:31-10. Rates, <sup>2</sup>[rental] rentals<sup>2</sup> and other charges.

23

40A:31-11. Connection fees.

24

40A:31-12. Rates, rentals, connection fees or other charges as  
lien on real property; discontinuance of service.

25

40A:31-13. Improvements financed by means of local  
improvement assessments.

26

40A:31-14. Local improvement assessments; procedures for and  
manner of assessment and collection.

27

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ACG committee amendments adopted February 1, 1988.

<sup>2</sup> Senate SCM committee amendments adopted October 20, 1988.

- 1 40A:31-15. Bonds issued by one or more units; debt service  
payments.
- 3 40A:31-16. Water facilities deemed a self-liquidating purpose  
under certain circumstances.
- 5 40A:31-17. Payments by local unit to another local unit.
- 40A:31-18. Contracts entered into prior to appropriations  
7 therefor.
- 40A:31-19. Right of entry onto private property to make  
9 surveys or inspections; interference therewith.
- 40A:31-20. Payments owing by private water companies.
- 11 40A:31-21. Municipal extension to water supply facilities of a  
public utility; financing of the extension; and its  
13 sale or lease.
- 40A:31-22. Bonds as legal investments.
- 15 40A:31-23. Nonimpairment of prior obligations to provide  
water supply <sup>2</sup>[service] services<sup>2</sup> by public or  
17 private agencies; no facilities in utilities authority  
service areas; prior approval for service in other  
19 local units; control by Board of Public Utilities.
- 40A:31-24. Statutes repealed.
- 21 40A:31-1. Short title.  
This act shall be known and may be cited as the "County and  
23 Municipal Water Supply Act."
- 40A:31-2. Legislative purpose.
- 25 The Legislature finds and declares it to be in the public  
interest and to be the policy of this State to foster and promote  
27 by all reasonable means the collection, storage and distribution  
of an adequate supply of water for the inhabitants and  
29 <sup>2</sup>[business] businesses<sup>2</sup> of the counties and municipalities of this  
State. It is the purpose of this act to further implement that  
31 policy by authorizing a county or municipality, either separately  
or in combination with one or more other counties or  
33 municipalities, or private water companies, or the State, to  
acquire, construct, maintain, operate or improve facilities for  
35 the <sup>2</sup>[accumulation] accumulation<sup>2</sup>, supply or distribution of  
water and to provide for the financing of these facilities.
- 37 Source: C.40:14C-2 (P.L.1979, c.451, s.2).
- 40A:31-3. Definitions.
- 39 As used in this act:

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

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

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

19 d. "Water supply facilities" means the plants, structures or  
other real and personal property<sup>2</sup>[,]<sup>2</sup> acquired, constructed or  
21 operated, or to be financed, acquired, constructed or operated,  
or any parts thereof, including<sup>2</sup>[,]<sup>2</sup> reservoirs, basins, dams,  
23 canals, aqueducts, standpipes, conduits, pipelines, mains,  
pumping stations, water distribution systems, compensating  
25 reservoirs, waterworks, or sources of water supply, well,  
purification or filtration plants, or other plants or works,  
27 connections, rights of flowage or diversion, and other plants,  
structures, boats, conveyances and other real and personal  
29 property, or rights therein, and appurtenances necessary or  
useful for the accumulation, supply or distribution of water.

31 Source: C.40:14C-3 (P.L.1979, c.451, s.3).

33 40A:31-4. Acquisition, construction or operation of water  
supply facilities by one or more local units.

35 A local unit may, either separately or in combination with one  
or more other local units, a private water company subject to  
37 regulation by the Board of Public Utilities as a public utility, or  
the State, acquire, construct or operate a water supply facility  
upon a determination by the governing body of the local unit or  
39 each participating local unit that the public health, safety

1 2[,]<sup>2</sup> or welfare can best be assured by the acquisition,  
2 construction or operation of water supply<sup>2[,]<sup>2</sup> facilities by the  
3 local unit or units. The determination shall be by ordinance or  
4 resolution, or parallel ordinances or resolutions, as the case may  
5 be, of the governing body of the local unit or each of the  
6 participating local units.</sup>

7 No water supply facilities may be acquired, constructed or  
8 operated pursuant to this act until all necessary permits and  
9 approvals have been received from the appropriate State agency.  
10 Source: C.40:14C-4 (P.L.1979, c.451, s.4).

11 40A:31-5. Powers.

12 One or more local units adopting an ordinance or resolution in  
13 accordance with N.J.S.40A:31-4 are authorized and empowered:

14 a. Alone or in combination with a private water company or  
15 the State, to acquire, construct, improve, extend, enlarge or  
16 reconstruct and finance water supply facilities, and to operate,  
17 manage and control all or part of these facilities and all  
18 properties relating thereto;

19 b. To issue bonds of the local unit or units to pay all or part  
20 of the cost of the water supply facilities;

21 c. To receive and accept from the federal or State  
22 Government, or any agency or instrumentality thereof, grants  
23 1or loans<sup>1</sup> for, or in aid of, the planning, purchase, construction,  
24 improvement, extension, enlargement or reconstruction, or  
25 financing of water supply facilities, and to receive and accept  
26 from any source, contributions or money, property, labor or  
27 other things of value to be held, used and applied only for the  
28 purposes for which the grants 1or loans<sup>1</sup> and contributions are  
29 made;

30 d. To acquire in the name of the local unit or units by gift,  
31 purchase, or by the exercise of the right of eminent domain,  
32 such lands and rights and interests therein, including lands under  
33 water and riparian rights, and such personal property as may be  
34 deemed necessary for acquisition, construction, improvement,  
35 extension, enlargement or reconstruction, or for the efficient  
36 operation of any facilities acquired or constructed under the  
37 provisions of this act and to hold and dispose of all real and  
38 personal property so acquired;

39 e. To make and enter into all contracts and agreements

1 necessary or incidental to the performance of the local unit's or  
units' duties and the execution of powers authorized under this  
3 act, and to employ consulting and other engineers,  
superintendents, managers, attorneys, financial or other  
5 consultants or experts, and such other employees and agents as  
may be deemed necessary, and to fix their compensation;

7 f. Subject to the provisions and restrictions set forth in the  
ordinance or resolution authorizing or securing any bonds issued  
9 under the provisions of this act, to enter into contracts with the  
federal or State Government, or any agency or instrumentality  
11 thereof, or with any other local unit, private corporation,  
copartnership, association or individual providing for, or relating  
13 to, water supply, which contracts may provide for the furnishing  
of water supply services either by or to the local unit or units,  
15 or the joint construction or operation of water supply facilities;

g. To fix and collect rates, fees, rents and other charges in  
17 accordance with this act;

h. To exercise any other powers necessary or incidental to  
19 the effectuation of the general purposes of this act.

Source: C.40:14C-5 (P.L.1979, c.451, s.5).

21 40A:31-6. Surveys, maps and other costs; reimbursement  
from bond funds.

23 a. Whenever a local unit pursuant to N.J.S.40A:31-4 chooses  
to exercise powers granted hereunder, the local unit shall make  
25 or cause to be made such surveys, investigations, studies,  
borings, maps, plans, <sup>2</sup>[drawing] drawings<sup>2</sup> and estimates of  
27 costs and of revenues as may be necessary.

b. The cost of the surveys, investigations, studies, borings,  
29 maps, plans, drawings and estimates, or of any other costs  
relating to the acquisition or construction of a water supply  
31 facility may be paid out of the general funds of the local unit or  
participating local units. The local unit or units may be  
33 reimbursed for part or all of the expenditures made in  
accordance with this subsection from the <sup>2</sup>[proceeds] proceeds<sup>2</sup>  
35 of bonds issued pursuant to this act.

Source: C.40A:14C-6 (P.L.1979, c.451, s.6).

37 40A:31-7. Property damaged; repair, restoration or  
compensation.

39 All public or private property damaged or destroyed in

1 carrying out the powers granted by this act shall be restored or  
repaired and, as nearly as practicable, placed in its original  
3 condition, or adequate compensation shall be made therefor.

Source: C.40:14C-6<sup>2</sup>)]<sup>2</sup> (P.L.1979, c.451, s.6).

5 40A:31-8. Relocation of public utility property.

Whenever the local unit or units determine that it is necessary  
7 that any public utility facilities such as tracks, pipes, mains,  
conduits, cables, wires, towers, poles and other equipment and  
9 appliances of any public utility, as defined in R.S. 48:2-13,  
which are now, or hereafter may be located in, on, along, over  
11 or under any project, should be removed, the public utility  
owning or operating the facilities shall relocate or remove the  
13 same in accordance with the order of the local unit or units, the  
cost and expense of the relocation or removal, including the cost  
15 of installing the facilities in a new location or new locations,  
and the cost of any<sup>2</sup>[,]<sup>2</sup> lands, or any rights or interest in lands,  
17 and any other rights acquired to accomplish the relocation or  
removal, less the cost of any lands or any rights of the public  
19 utility paid to the public utility in connection with the  
<sup>2</sup>[relocaion] relocation<sup>2</sup> or removal of the property, shall be  
21 ascertained and paid as a part of the cost of the project. In case  
of any relocation or removal of facilities pursuant to this  
23 section, the public utility owning or operating the same, its  
successors or assigns, may maintain and operate the facilities,  
25 with the necessary appurtenances, in the new location, for as  
long a period, and upon the same terms and conditions, as it had  
27 the right to maintain and operate the facilities in their former  
location.

29 Source: New.

40A:31-9. Bonds and security therefor.

31 A local unit having adopted an ordinance or resolution  
pursuant to N.J.S.40A:31-4, may issue bonds pursuant to the  
33 provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq. for  
all or part of the cost of water supply facilities. Proceeds from  
35 the <sup>2</sup>[bond] bonds<sup>2</sup> shall be used solely for the payment of the  
costs of the water supply facilities for which the bonds have  
37 been authorized.

Bonds issued by a local unit or local units may be:

39 a. General obligation bonds payable from unlimited ad



1 valorem taxes which may additionally be secured by a pledge of  
revenues from rates, rentals or other charges levied and  
3 collected pursuant to the provisions of N.J.S.40A:31-10 and  
40A:31-11;

5 b. Local improvement assessment bonds payable from local  
improvement assessments as provided in N.J.S. 40A:31-13,  
7 additionally secured by unlimited ad valorem taxes; or

c. General obligation bonds secured and payable from rates,  
9 rental and other charges levied and collected pursuant to  
N.J.S.40A:31-10 and 40A:31-11, and additionally secured by  
11 unlimited ad valorem taxes. Bonds may additionally be secured  
by a pledge of any grant<sup>2,2</sup> subsidy or contribution received by  
13 the issuing local unit from the United States or the State of New  
Jersey, or any agency, instrumentality or political subdivision  
15 thereof.

Source: C.40:14C-7 (P.L.1979, c.451, s.7) and new.

17 40A:31-10. Rates, rentals and other charges.

After the commencement of operation of water supply  
19 facilities, the local unit or units may prescribe and, from  
<sup>2</sup>[time-to-time] time to time<sup>2</sup>, alter rates or rentals to be  
21 charged to users of water supply services. Rates or rentals  
being in the nature of use or service charges or <sup>2</sup>[annual]  
23 annual<sup>2</sup> rental charges, shall be uniform and equitable for the  
same type and class of use or service of the facilities. Rates or  
25 rentals and types and classes of use and service may be based on  
any factors which the governing body or bodies of that local unit  
27 or units shall deem proper and equitable within the region served.

In fixing rates, rental and other charges for supplying water  
29 services, the local unit or units shall establish a rate structure  
that allows, within the limits of any lawful covenants made with  
31 bondholders, the local unit to:

a. Recover all costs of acquisition, construction or operation,  
33 including the costs of raw materials, administration, real or  
personal property, maintenance, taxes<sup>2,2</sup> debt service charges,  
35 fees and an amount equal to any operating budget deficit  
occurring in the immediately preceding fiscal year;

37 b. Establish a surplus in an amount sufficient to provide for  
the reasonable anticipation of any contingency that may affect  
39 the operation of the utility, and, at the discretion of the local

1 unit or units, allow for the transfer of moneys from the budget  
for the water supply facilities to the local budget in accordance  
3 with section 5 of P.L.1983, c.111 (C.40A:4-35.1).

No local unit or units shall, however<sup>2,2</sup> impose any rates or  
5 rentals in excess of the cost of water actually used for any  
sprinkler system required to be installed in any residential  
7 health care facility pursuant to the "Health Care Facilities  
Planning Act," P.L.1979, c.136 (C.26:2H-1 et seq.) and  
9 regulations promulgated thereunder or in any rooming or  
boarding house pursuant the "Rooming and Boarding House Act  
11 of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations  
promulgated <sup>2</sup>[theruender] thereunder<sup>2</sup>.

13 Source: C.40:14C-8 (P.L.1979, c.451, s.8) and C.40:62-85.2.

40A:31-11. Connection fees.

15 In addition to rates and rentals, a separate charge in the  
nature of a connection fee or tapping fee for each connection of  
17 any property with the water supply system may be imposed upon  
the <sup>2</sup>[person making the connection or upon the]<sup>2</sup> owner or  
19 occupant of the property so connected. The connection charges  
shall be uniform within each class of users and the amount  
21 thereof shall not exceed the actual cost of the physical  
connection plus an amount <sup>2</sup>[representing the fair contribution  
23 of the connecting party toward the debt service charges on the  
bonds issued for the installation and construction of the water  
25 supply system previously paid by users of the water supply  
system, in order that the] computed in the following manner to  
27 represent a fair payment towards the cost of the system:

a. The amount representing all debt service, including but not  
29 limited to sinking funds, reserve funds, the principal and interest  
on bonds, and the amount of any loans and the interest thereon,  
31 paid by the local unit or units to defray the capital cost of  
developing the system as of the end of the immediately  
33 preceding budget year shall be added to all capital expenditures  
made by a local unit or units not funded by a bond ordinance or  
35 debt for the development of the system as of the end of the  
immediately preceding budget year.

37 b. Any gifts, contributions or subsidies to the local unit or  
units received from, and not reimbursed or reimbursable to, any  
39 federal, State, county or municipal government or agency

1 or any private person, and that portion of amounts paid to the  
2 local unit or units by a public entity under a service agreement  
3 or service contract which is not repaid to the public entity by  
4 the local unit or units, shall then be subtracted.

5 c. The remainder shall be divided by the total number of  
6 service units served by the local unit or units at the end of the  
7 immediately preceding budget year, and the results shall then be  
8 apportioned to each new connector according to the number of  
9 service units attributed to that connector. In attributing service  
10 units to each connector, the estimated average daily flow of  
11 water for the connector shall be divided by the average daily  
12 flow of water to the average single family residence in the area  
13 served by the local unit or units, to produce the number of  
14 service units to be attributed.

15 The connection fee shall be recomputed at the end of each  
16 budget year, after a public hearing is held. The revised  
17 connection fee may be imposed upon those who subsequently  
18 connect in that budget year to the system.

19 The<sup>2</sup> combination of the connection fee or tapping fee and the  
20 aforsaid water service charges shall be <sup>2</sup>such that the revenues  
21 of water supply facilities shall be<sup>2</sup> adequate to pay the expenses  
22 of operation and maintenance of the water supply facilities,  
23 including improvements, extensions, enlargements and  
24 replacements to water supply facilities, reserves, insurance,  
25 principal and interest on any bonds, and to maintain such  
26 reserves or sinking funds therefor as may be required under the  
27 bond covenants or any contracts, or as may be deemed necessary  
28 or desirable.

29 Source: New.

30 40A:31-12. Rates, <sup>2</sup>[rental] rentals<sup>2</sup>, connection fees<sup>2</sup>[,]<sup>2</sup> or  
31 other charges as lien on real property; discontinuance of service.

32 Rates, rentals, connection fees or other charges levied in  
33 accordance with N.J.S.40A:31-10 and 40A:31-11, shall be a first  
34 lien or charge against the property benefited therefrom. If any  
35 part of the amount due and payable in rates, rentals, connection  
36 fees or other charges remains unpaid for 30 days following the  
37 date for the payment thereof, interest upon the amount unpaid  
38 shall accrue at a rate of interest to be determined in accordance  
39 with N.J.S.40A:31-17. The governing body or bodies of the local

1 unit or units may authorize payment of delinquent assessments  
2 on an installment basis in accordance with R.S.54:5-19. Liens  
3 levied in accordance with this section shall be enforceable in the  
4 manner provided for real property tax liens in chapter 5 of Title  
5 54 of the Revised Statutes.

6 Nothing in this section shall be construed to limit the right of  
7 a local unit or local units to discontinue service to any property  
8 for the failure to pay any amount owing within 30 days after the  
9 date the amount is due and payable, if written notice of the  
10 proposed discontinuance of service and of the reasons therefor  
11 has been given, within at least 10 days prior to the date of  
12 discontinuance, to the owner of record of the property. In the  
13 event that notice is provided by mail, the notice requirements  
14 shall be satisfied if the mailing is made to the last known  
15 address of the owner of record and is postmarked at least 10  
16 days prior to the date of discontinuance.

17 Source: R.S.40:62-78, 40:62-79 and new.

18 40A:31-13. Improvements financed by means of local  
19 improvement assessments.

20 If the governing body of one or more local units determines  
21 that all or any part of the cost of construction of water supply  
22 facilities acquired or constructed pursuant to this act should be  
23 financed by local improvement assessments on real properties  
24 located within the local unit or units, the local unit or units shall  
25 pass a resolution or parallel resolutions on the intention to  
26 undertake and finance the water supply facilities and shall give  
27 notice thereof by advertising in one or more newspapers of  
28 general circulation in the local unit or units, and by notifying  
29 each concerned property owner by certified mail. The notice  
30 shall fix a date, time and place for a public hearing on the  
31 proposed action; except that the date of the hearing shall not be  
32 earlier than two weeks after the mailing of notices to concerned  
33 property owners. If, after the hearing, the governing body or  
34 bodies decide to carry out the proposed local improvement, an  
35 ordinance or resolution, or parallel ordinances or resolutions  
36 shall be adopted declaring that determination.

37 Source: New.

38 40A:31-14. Local improvement <sup>2</sup>[assessment] assessments<sup>2</sup>;  
39 procedures for and manner of assessment and collection.

1       Upon completion of the improvements made pursuant to  
2 N.J.S.40A:31-13, the governing body or governing bodies shall  
3 assess the costs and expenses of the water supply facilities on  
4 the lands specially benefited therefrom in proportion to the  
5 benefits received; however, no county may levy local  
6 improvement assessments within a municipality without the  
7 approval of that municipality.

8       When completed, the assessments shall be filed as a report  
9 with the clerk or clerks of the governing body or bodies who  
10 shall give notice, by advertising in one or more newspapers of  
11 general circulation in the local unit or units, and by notifying  
12 each concerned property owner by certified mail, of the fact  
13 that the report has been filed and that the governing body or  
14 bodies will meet at a time and place designated in the notice to  
15 hear remonstrances against the report. The governing body or  
16 bodies shall meet at the time and place designated in the notice  
17 to hear remonstrances <sup>2</sup>[amd] and<sup>2</sup> may revise the report as may  
18 be deemed appropriate after which the report shall be filed with  
19 the clerk or clerks of the governing body or bodies, and the  
20 assessments shall constitute liens upon the lands so assessed for  
21 special benefits.

22       The clerk or clerks shall deliver a duplicate copy of the report  
23 to the appropriate officer or officers of the local unit or units  
24 who shall immediately thereafter send out by mail or deliver to  
25 owners of lands bills for the assessments. The officer or  
26 officers shall mail or deliver bills for an assessment in the  
27 manner required in connection with local improvements and  
28 shall keep <sup>2</sup>a<sup>2</sup> record and books of assessments in the same  
29 manner required for local improvements under R.S.40:56-31, at  
30 the expense of the local unit or units. The governing body or  
31 bodies may make additional requirements for recording,  
32 accounting for and collecting assessments.

33       The governing body of a participating local unit may, by  
34 resolution<sup>2,2</sup> provide that the owner of any real estate<sup>2[,]2</sup>  
35 located within the local unit upon which a local improvement  
36 assessment has been made<sup>2[,]2</sup> may pay the assessment in  
37 installments pursuant to the procedures contained in  
38 R.S.40:56-35.

39       When an unpaid assessment, interest thereon or other charges

1 for collection thereof remain in arrears on July 4<sup>2</sup>[,]<sup>2</sup> of the  
2 calendar year following the calendar year when the amount  
3 becomes in arrears, the appropriate officer of the local unit  
4 shall enforce the lien by selling the property in the manner set  
5 forth in chapter 5 of Title 54 of the Revised Statutes.

Source: New.

7 40A:31-15. Bonds issued by one or more units; <sup>2</sup>debt<sup>2</sup> service  
8 payments.

9 A local unit, pursuant to an agreement with one or more other  
10 local units or the State, may bear the entire cost of the  
11 acquisition or construction of water supply facilities and issue  
12 bonds therefor, or may share all or part of these costs with the  
13 other government. If the cost of acquisition or construction is  
14 shared, bonds may be issued by each of the participating  
15 governments for part or all of each government's respective  
16 costs, or a local unit may issue bonds for the entire cost of the  
17 water supply facilities to be acquired or constructed, with the  
18 share of the costs of each of the other participating  
19 governments to be repaid to the issuing local unit in annual  
20 installments with a period agreed to by the parties but not to  
21 exceed 40 years. The agreement shall prescribe the rate or  
22 rates of <sup>2</sup>[interests] interest<sup>2</sup> on the annual installments and  
23 such other terms and conditions as agreed to by the parties.  
24 Agreements made hereunder shall be authorized by resolution of  
25 the governing bodies of the participating parties, or in the case  
26 of the State, the Commissioner of the Department of  
27 Environmental Protection. Annual installment <sup>2</sup>[payment]  
28 payments<sup>2</sup> may include payment of the agreed share of a  
29 participating government's operating and maintenance costs,  
30 including the costs of any improvements, extensions,  
31 enlargements or reconstruction.

Source: C.40:14C-9 (P.L.1979, c.451, s.9).

33 40A:31-16. Water facilities deemed a self-liquidating purpose  
34 under certain circumstances.

35 a. Principal and interest payments on bonds issued in  
36 accordance with subsection c. of N.J.S.40A:31-9 and operating  
37 and maintenance costs<sup>2</sup>[, as defined in N.J.S.40A:2-45,]<sup>2</sup> for the  
38 water supply facilities, shall not be included in computing the  
39 gross or net indebtedness of the local unit issuing the bonds,

1 if the cash receipts from fees, rents and other charges in a  
2 fiscal year are sufficient to meet operating and maintenance  
3 expenses <sup>2</sup>[as defined in N.J.S.40A:2-45]<sup>2</sup>. In such cases, water  
4 supply facilities shall be deemed a self-liquidating purpose and  
5 interest and debt redemption charges, and maintenance and  
6 operating costs payable or accruing in that fiscal year shall be  
7 treated in the manner prescribed in N.J.S.40A:2-45 through  
8 40A:2-47;

9 b. (1) Annual installment payments to a local unit made  
10 pursuant to N.J.S.40A:31-15 shall not be included in computing  
11 the gross or net indebtedness of the other participating  
12 government or governments, except that a self-liquidating  
13 purpose facility shall be subject to the provisions of  
14 N.J.S.40A:2-48; nor

15 (2) shall the principal and interest on bonds issued by a local  
16 unit to finance, pursuant to an agreement made in accordance  
17 with N.J.S.40A:31-15, the share of the cost of the construction  
18 or acquisition, or of maintenance or operation of another  
19 government, be included in any computation of gross or net  
20 indebtedness of the local unit.

21 Source: New.

22 40A:31-17. Payments by local unit to another local unit.

23 The chief fiscal officer of another government having entered  
24 into <sup>2</sup>a<sup>2</sup> contract pursuant to this act, shall cause to be paid to  
25 the local unit such amounts of money at such times as shall be  
26 stipulated in the contract and certified by the local unit. The  
27 power and obligation to make payments in accordance with the  
28 terms of the contract shall be unlimited, and the sums necessary  
29 <sup>2</sup>[therefore] therefor<sup>2</sup> shall be included in the annual budget of  
30 the other government, which shall be irrevocably and  
31 unconditionally obligated to levy ad valorem taxes on all taxable  
32 property therein, without limits as to rate or amount, to the  
33 extent necessary to make payments in full as due. Any part of  
34 a payment that remains unpaid for 30 days following the date  
35 payment is due, shall be assessed an interest charge at a rate of  
36 interest at least equal to the monthly index for the immediately  
37 preceding month for 20 year tax exempt bond yields as compiled  
38 by the Bond Buyer or any similar index agreed to by the parties.

39 Source: C.40:14C-12 (P.L.1979, c.451, s.12).

1       40A:31-18. Contracts entered into prior to appropriations  
2[therefore] therefor<sup>2</sup>.

3       A local unit shall have the power to authorize, by resolution,  
4 officials to enter into and execute a contract pursuant to this  
5 act for such periods of time and under such terms and conditions  
6 as are deemed proper and necessary, notwithstanding that no  
7 appropriation was made or provided to cover the estimated cost  
8 of the contract. The governing body of each contracting local  
9 unit shall have full power and authority to do and perform all  
10 acts and things provided under the terms and conditions of the  
11 contract.

Source: C.40:14C-10 (P.L.1979, c.451, s.10)

13       40A:31-19. Right of entry onto private property to make  
14 surveys and investigations; <sup>2</sup>[intereference] interference<sup>2</sup>  
15 therewith.

16       A local unit or local units may authorize officials or other  
17 agents of the local unit or units to enter upon any land or water  
18 for the purpose of making surveys, studies, investigations or  
19 inspections, and, at <sup>2</sup>[a]<sup>2</sup> reasonable hours, to enter any building  
20 or other structure using or suspected of using water supplied by  
21 the local unit or units. The officials or other agents are  
22 empowered to examine meters, service pipes or any equipment  
23 connected to the water supply facilities or service pipes for  
24 compliance with established standards and other requirements.

25       The supply of water to any property may be discontinued if  
26 the owner, lessee or other user of that property opposes or  
27 obstructs an authorized official or other agent in the  
28 performance of his duties. The discontinuance shall continue  
29 <sup>2</sup>[unitl] until<sup>2</sup> the required investigations or inspection are  
30 made, and any alterations or repairs found to be necessary have  
31 been made and approved by the appropriate official or agent.

Source: R.S.40:62-82.

33       40A:31-20. Payments <sup>2</sup>[owning] owing<sup>2</sup> by private water  
34 companies.

35       A private water company or industry which shall have entered  
36 into a contract with a local unit or local units <sup>2</sup>[prusuant]  
37 pursuant<sup>2</sup> to this act, shall pay at such time as may be provided  
38 in the contract, the sum of money certified to it on or before  
39 the date provided for payment in the contract. Any sum of



1 money so certified by the local unit or units shall be a lien in  
2 favor of the local unit or units on and against the property of  
3 the private water company or industry. If the sum of money or  
4 any part thereof is not paid on or before the contract payment  
5 date, the unpaid amount shall bear interest at the rate to be  
6 determined in accordance with the provisions of  
7 N.J.S.40A:31-17, until payment is complete and, the local unit  
8 or local units shall make and record, in the same manner as  
9 conveyances of interest in real property are recorded, a  
10 certificate setting forth the facts and giving notice of the  
11 existence and amount of the lien remaining unsatisfied. The lien  
12 shall have priority over all other liens theretofore or thereafter  
13 attaching, except those for federal, State and local taxes.

Source: C.40:14C-13 (P.L.1979, c.451, s.13).

15 40A:31-21. Municipal extension to water supply facilities of a  
16 public utility; financing of the extension; and its sale or lease.

17 A municipality in which water supply facilities are furnished  
18 by a private water company may, in accordance with the  
19 provisions of this act, provide for the construction, or  
20 construction and operation of an extension to an existing water  
21 supply system of a private water company for the purpose of  
22 supplying water services for the public and private uses of the  
23 municipality and its inhabitants. The cost of construction of the  
24 extension may be financed from the tax revenues of the  
25 municipality or by the issuance of general obligation bonds  
26 secured in any manner provided in N.J.S.40A:31-9.

27 The extension may be leased or sold by the municipality  
28 pursuant to an ordinance adopted by its governing body to the  
29 private water company upon approval of the terms and  
30 conditions of the lease or sale by the Board of Public Utilities.  
31 If the extension has been financed pursuant to subsections b. or  
32 c. of N.J.S.40A:31-9, the proceeds from the lease or sale shall  
33 be refunded or credited pro rata to the ratepayers or the owners  
34 of property assessed, or their legal representatives or assigns, in  
35 such manner as may be determined by the governing body of the  
36 municipality.

37 Source: C.40:62-61.2 through 40:62-61.5 (P.L.1981, c.497,  
38 §§1-4).

39 40A:31-22. Bonds as legal investments.

1 Notwithstanding any restrictions contained in any other law,  
the State and all public officers, local units, political  
3 subdivisions and public bodies, or agencies thereof, banks, trust  
companies, savings banks, savings and loan associations,  
5 investment companies, insurance companies, insurance  
businesses, and executors, administrators, guardians, trustees  
7 and other fiduciaries, may legally invest any sinking fund  
moneys or other funds belonging to them or within their control  
9 in any bonds authorized pursuant to this act, which bonds shall  
be authorized security for any and all public deposits. The bonds  
11 and the interest thereon shall be exempt from taxation except  
for transfer and inheritance taxes.

13 Source: C.40:14C-11 (P.L.1979, c.451, s.11).

40A:31-23. Nonimpairment of prior obligations to provide  
15 water supply services by public or private agencies; no facilities  
in utilities authority service <sup>2</sup>[area] areas<sup>2</sup>; prior approval <sup>2</sup>[of  
17 services] for service<sup>2</sup> in other local units; control by Board of  
Public Utilities.

19 a. Nothing contained in this act shall in any way impair the  
obligations previously assumed by any other public or private  
21 agency for the provision of water supply services and facilities  
to the citizens and industries of this State, or for any other  
23 purpose authorized by any law repealed by <sup>2</sup>[N.J.S.40A:31-22]  
N.J.S.40A:31-24<sup>2</sup>.

25 b. In the event a municipal utilities authority has been  
established in a local unit pursuant to the provisions of the  
27 "municipal and county utilities authorities law," P.L.1957,  
c.183; C.40:14B-1 et seq., no local unit<sup>2</sup>[,]<sup>2</sup> or units shall  
29 establish any facility within the territory of that local unit  
which is competitive with any water supply facility operated by  
31 that authority.

c. No water supply services shall be provided in accordance  
33 with this act to users in another local unit without the prior  
approval of the governing body of that other local unit.

35 d. Subject to the terms of any agreement entered into by  
participating local units or between a supplying and receiving  
37 local unit or units and the provisions of this act, a local unit or  
local units owning and operating water supply facilities in  
39 accordance with the provisions of N.J.S. 40A:31-4, which supply

1 water to more than 1,000 billed customers within another local  
 2 unit, shall be subject to the jurisdiction, regulation and control  
 3 of the Board of Public Utilities in accordance with the  
 4 provisions of Title 48 of the Revised Statutes. The provisions of  
 5 this subsection shall not apply where water is supplied to  
 6 customers in another local unit at bulk rates.

7 Source: C.40:14C-14 (P.L.1979, c.451, s.14), R.S.40:62-83,  
 8 C.40:62-85.2 (P.L.1975, c.184, s.1) and new.

9 40A:31-24. Statutes repealed.

The following acts are repealed:

11 P.L.1979, c.451 (C.40:14C-1 through 40:14C-15);

R.S.40:62-47 through 40:62-59;

13 R.S.40:62-62 through 40:62-95; and

P.L.1981, c.497, §§.1-4 (C.40:62-61.1 through 40:62-61.4); and

15 P.L.1975, c.184, s.1 (C.40:62-85.2).

2. Section 5 of P.L.1983, c.111 (C.40A:4-35.1) is amended to  
 17 read as follows:

5. To the extent there is available surplus revenue collected  
 19 by a municipality pursuant to chapter 62 of Title 40 of the  
 Revised Statutes for supplying a utility service which is  
 21 regulated by the Board of Public Utilities pursuant to  
 [R.S.40:62-24 or section 1 of P.L.1975, c.184 (C.40:62-85.2)]  
 23 subsection d. of N.J.S.40A:31-23, an amount not to exceed 5%  
 of the annual costs of operation of the utility may be  
 25 transferred annually from the accounts of the municipal utility  
 and included in the local budget pursuant to N.J.S.40A:4-35.

27 (cf: P.L.1983, c.111, s.5)

3. This act shall take effect immediately.

29

## MUNICIPALITIES

31

### Water Supply

33 Permits counties and municipalities to join with each other,  
 private companies or the State to finance water supply facilities.

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman FRELINGHUYSEN

1 AN ACT permitting counties and municipalities, either  
separately or jointly with other counties or municipalities, or  
3 private water companies, or the State, to finance, construct,  
acquire and operate water supply facilities, repealing various  
5 sections of statutory law, enacting chapter 31 of Title 40A of  
the New Jersey Statutes, and amending P.L. 1983, c. 111.

7

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

1.

11

TITLE 40A

CHAPTER 31

13

COUNTY AND MUNICIPAL WATER SUPPLY

40A:31-1. Short Title.

15

40A:31-2. Legislative purpose.

40A:31-3. Definitions.

17

40A:31-4. Acquisition, construction or operation of water  
supply facilities by one or more local units.

19

40A:31-5. Powers.

21

40A:31-6. Surveys, maps and other costs; reimbursement from  
bond funds.

23

40A:31-7. Property damaged; repair, restoration or  
compensation.

25

40A:31-8. Relocation of public utility property.

27

40A:31-9. Bonds and security therefor.

40A:31-10. Rates, rental and other charges.

29

40A:31-11. Connection fees.

31

40A:31-12. Rates, rentals, connection fees or other charges as  
lien on real property; discontinuance of service.

33

40A:31-13. Improvements financed by means of local  
improvement assessments.

40A:31-14. Local improvement assessments; procedures for and  
manner of assessment and collection.

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

Matter underlined thus is new matter.

1 40A:31-15 Bonds issued by one or more units; debt service  
payments.

3 40A:31-16. Water facilities deemed a self-liquidating purpose  
under certain circumstances.

5 40A:31-17. Payments by local unit to another local unit.

40A:31-18. Contracts entered into prior to appropriations  
7 therefor.

40A:31-19. Right of entry onto private property to make  
9 surveys or inspections; interference therewith.

40A:31-20. Payments owing by private water companies.

11 40A:31-21. Municipal extension to water supply facilities of a  
public utility; financing of the extension; and its  
13 sale or lease.

40A:31-22. Bonds as legal investments.

15 40A:31-23. Nonimpairment of prior obligations to provide  
water supply service by public or private agencies;  
17 no facilities in utilities authority service areas;  
prior approval for service in other local units;  
19 control by Board of Public Utilities.

40A:31-24. Statutes repealed.

21 40A:31-1. Short title.

This act shall be known and may be cited as the "County and  
23 Municipal Water Supply Act."

40A:31-2. Legislative purpose.

25 The Legislature finds and declares it to be in the public  
interest and to be the policy of this State to foster and promote  
27 by all reasonable means the collection, storage and distribution  
of an adequate supply of water for the inhabitants and business  
29 of the counties and municipalities of this State. It is the  
purpose of this act to further implement that policy by  
31 authorizing a county or municipality, either separately or in  
combination with one or more other counties or municipalities,  
33 or private water companies, or the State, to acquire, construct,  
maintain, operate or improve facilities for the accumulation,  
35 supply or distribution of water and to provide for the financing  
of these facilities.

37 Source: C. 40:14C-2 (P.L. 1979, c. 451, s. 2).

40A:31-3. Definitions.

39 As used in this act:

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

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

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

19 d. "Water supply facilities" means the plants, structures or  
21 other real and personal property, acquired, constructed or  
operated, or to be financed, acquired, constructed or operated,  
23 or any parts thereof, including, reservoirs, basins, dams, canals,  
aqueducts, standpipes, conduits, pipelines, mains, pumping  
25 stations, water distribution systems, compensating reservoirs,  
waterworks, or sources of water supply, well, purification or  
27 filtration plants, or other plants or works, connections, rights of  
flowage or diversion, and other plants, structures, boats,  
conveyances and other real and personal property, or rights  
29 therein, and appurtenances necessary or useful for the  
accumulation, supply or distribution of water.

31 Source: C. 40:14C-3 (P. L. 1979, c. 451, s. 3).

33 40A:31-4. Acquisition, construction or operation of water  
supply facilities by one or more local units. A local unit may,  
either separately or in combination with one or more other local  
35 units, a private water company subject to regulation by the  
Board of Public Utilities as a public utility, or the State,  
37 acquire, construct or operate a water supply facility upon a  
determination by the governing body of the local unit or each

1 participating local unit that the public health, safety, or welfare  
2 can best be assured by the acquisition, construction or operation  
3 of water supply, facilities by the local unit or units. The  
4 determination shall be by ordinance or resolution, or parallel  
5 ordinances or resolutions, as the case may be, of the governing  
6 body of the local unit or each of the participating local units.

7 No water supply facilities may be acquired, constructed or  
8 operated pursuant to this act until all necessary permits and  
9 approvals have been received from the appropriate State agency.  
10 Source: C. 40:14C-4 (P. L. 1979, c. 451, s. 4).

11 40A:31-5. Powers.

12 One or more local units adopting an ordinance or resolution in  
13 accordance with N.J.S. 40A:31-4 are authorized and empowered:

14 a. Alone or in combination with a private water company or  
15 the State, to acquire, construct, improve, extend, enlarge or  
16 reconstruct and finance water supply facilities, and to operate,  
17 manage and control all or part of these facilities and all  
18 properties relating thereto;

19 b. To issue bonds of the local unit or units to pay all or part  
20 of the cost of the water supply facilities;

21 c. To receive and accept from the federal or State  
22 Government, or any agency or instrumentality thereof, grants  
23 for, or in aid of, the planning, purchase, construction,  
24 improvement, extension, enlargement or reconstruction, or  
25 financing of water supply facilities, and to receive and accept  
26 from any source, contributions or money, property, labor or  
27 other things of value to be held, used and applied only for the  
28 purposes for which the grants and contributions are made;

29 d. To acquire in the name of the local unit or units by gift,  
30 purchase, or by the exercise of the right of eminent domain,  
31 such lands and rights and interests therein, including lands under  
32 water and riparian rights, and such personal property as may be  
33 deemed necessary for acquisition, construction, improvement,  
34 extension, enlargement or reconstruction, or for the efficient  
35 operation of any facilities acquired or constructed under the  
36 provisions of this act and to hold and dispose of all real and  
37 personal property so acquired;

38 e. To make and enter into all contracts and agreements  
39 necessary or incidental to the performance of the local unit's or

1 units' duties and the execution of powers authorized under this  
 2 act, and to employ consulting and other engineers,  
 3 superintendents, managers, attorneys, financial or other  
 4 consultants or experts, and such other employees and agents as  
 5 may be deemed necessary, and to fix their compensation;

6 f. Subject to the provisions and restrictions set forth in the  
 7 ordinance or resolution authorizing or securing any bonds issued  
 8 under the provisions of this act, to enter into contracts with the  
 9 federal or State Government, or any agency or instrumentality  
 10 thereof, or with any other local unit, private corporation,  
 11 copartnership, association or individual providing for, or relating  
 12 to, water supply, which contracts may provide for the furnishing  
 13 of water supply services either by or to the local unit or units,  
 14 or the joint construction or operation of water supply facilities;

15 g. To fix and collect rates, fees, rents and other charges in  
 16 accordance with this act;

17 h. To exercise any other powers necessary or incidental to  
 18 the effectuation of the general purposes of this act.

19 Source: C. 40:14C-5 (P.L. 1979, c. 451, s. 5).

20 40A:31-6. Surveys, maps and other costs; reimbursement  
 21 from bond funds.

22 a. Whenever a local unit pursuant to N.J.S. 40A:31-4 chooses  
 23 to exercise powers granted hereunder, the local unit shall make  
 24 or cause to be made such surveys, investigations, studies,  
 25 borings, maps, plans, drawing and estimates of costs and of  
 26 revenues as may be necessary.

27 b. The cost of the surveys, investigations, studies, borings,  
 28 maps, plans, drawings and estimates, or of any other costs  
 29 relating to the acquisition or construction of a water supply  
 30 facility may be paid out of the general funds of the local unit or  
 31 participating local units. The local unit or units may be  
 32 reimbursed for part or all of the expenditures made in  
 33 accordance with this subsection from the proceeds of bonds  
 34 issued pursuant to this act.

35 Source: C. 40A:14C-6 (P.L. 1979, c. 451, s. 6).

36 40A:31-7. Property damaged; repair, restoration or  
 37 compensation.

38 All public or private property damaged or destroyed in  
 39 carrying out the powers granted by this act shall be restored or



1 repaired and, as nearly as practicable, placed in its original  
condition, or adequate compensation shall be made therefor.

3 Source: C. 40:14C-6) (P.L. 1979, c. 451, s. 6).

40A:31-8. Relocation of public utility property. Whenever the  
5 local unit or units determine that it is necessary that any public  
utility facilities such as tracks, pipes, mains, conduits, cables,  
7 wires, towers, poles and other equipment and appliances of any  
public utility, as defined in R.S. 48:2-13, which are now, or  
9 hereafter may be located in, on, along, over or under any  
project, should be removed, the public utility owning or  
11 operating the facilities shall relocate or remove the same in  
accordance with the order of the local unit or units, the cost and  
13 expense of the relocation or removal, including the cost of  
installing the facilities in a new location or new locations, and  
15 the cost of any, lands, or any rights or interest in lands, and any  
other rights acquired to accomplish the relocation or removal,  
17 less the cost of any lands or any rights of the public utility paid  
to the public utility in connection with the relocation or removal  
19 of the property, shall be ascertained and paid as a part of the  
cost of the project. In case of any relocation or removal of  
21 facilities pursuant to this section, the public utility owning or  
operating the same, its successors or assigns, may maintain and  
23 operate the facilities, with the necessary appurtenances, in the  
new location, for as long a period, and upon the same terms and  
25 conditions, as it had the right to maintain and operate the  
facilities in their former location.

27 Source: New.

40A:31-9. Bonds and security therefor.

29 A local unit having adopted an ordinance or resolution  
pursuant to N.J.S. 40A:31-4, may issue bonds pursuant to the  
31 provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq. for  
all or part of the cost of water supply facilities. Proceeds from  
33 the bond shall be used solely for the payment of the costs of the  
water supply facilities for which the bonds have been authorized.

35 Bonds issued by a local unit or local units may be:

37 a. General obligation bonds payable from unlimited ad  
valorem taxes which may additionally be secured by a pledge of  
revenues from rates, rentals or other charges levied and

1 collected pursuant to the provisions of N.J.S. 40A:31-10 and  
40A:31-11;

3 b. Local improvement assessment bonds payable from local  
improvement assessments as provided in N.J.S. 40A:31-13,  
5 additionally secured by unlimited ad valorem taxes; or

7 c. General obligation bonds secured and payable from rates,  
rental and other charges levied and collected pursuant to N.J.S.  
9 40A:31-10 and 40A:31-11, and additionally secured by unlimited  
ad valorem taxes. Bonds may additionally be secured by a  
11 pledge of any grant subsidy or contribution received by the  
issuing local unit from the United States or the State of New  
13 Jersey, or any agency, instrumentality or political subdivision  
thereof.

Source: C. 40:14C-7 (P.L. 1979, c. 451, s. 7) and new.

15 40A:31-10. Rates, rentals and other charges.

After the commencement of operation of water supply  
17 facilities, the local unit or units may prescribe and, from  
time-to-time, alter rates or rentals to be charged to users of  
19 water supply services. Rates or rentals being in the nature of  
use or service charges or animal rental charges, shall be uniform  
21 and equitable for the same type and class of use or service of  
the facilities. Rates or rentals and types and classes of use and  
23 service may be based on any factors which the governing body or  
bodies of that local unit or units shall deem proper and equitable  
25 within the region served.

In fixing rates, rental and other charges for supplying water  
27 services, the local unit or units shall establish a rate structure  
that allows, within the limits of any lawful covenants made with  
29 bondholders, the local unit to:

31 a. Recover all costs of acquisition, construction or operation,  
including the costs of raw materials, administration, real or  
personal property, maintenance, taxes debt service charges, fees  
33 and an amount equal to any operating budget deficit occurring in  
the immediately preceding fiscal year;

35 b. Establish a surplus in an amount sufficient to provide for  
the reasonable anticipation of any contingency that may affect  
37 the operation of the utility, and, at the discretion of the local

1 unit or units, allow for the transfer of moneys from the budget  
for the water supply facilities to the local budget in accordance  
3 with section 5 of P.L. 1983, c. 111 (C. 40A:4-35.1).

No local unit or units shall, however impose any rates or  
5 rentals in excess of the cost of water actually used for any  
sprinkler system required to be installed in any residential  
7 health care facility pursuant to the "Health Care Facilities  
Planning Act," P.L. 1979, c. 136 (C. 26:2H-1 et seq.) and  
9 regulations promulgated thereunder or in any rooming or  
boarding house pursuant the "Rooming and Boarding House Act  
11 of 1979," P.L. 1979, c. 498 (C. 55:13B-1 et al.) and regulations  
promulgated thereunder.

13 Source: C. 40:14C-8 (P.L. 1979, c. 451, s. 8) and C. 40:62-85.2.  
40A:31-11. Connection fees.

15 In addition to rates and rentals, a separate charge in the  
nature of a connection fee or tapping fee for each connection of  
17 any property with the water supply system may be imposed upon  
the person making the connection or upon the owner or occupant  
19 of the property so connected. The connection charges shall be  
uniform within each class of users and the amount thereof shall  
21 not exceed the actual cost of the physical connection plus an  
amount representing the fair contribution of the connecting  
23 party toward the debt service charges on the bonds issued for  
the installation and construction of the water supply system  
25 previously paid by users of the water supply system, in order  
that the combination of the connection fee or tapping fee and  
27 the aforesaid water service charges shall be adequate to pay the  
expenses of operation and maintenance of the water supply  
29 facilities, including improvements, extensions, enlargements and  
replacements to water supply facilities, reserves, insurance,  
31 principal and interest on any bonds, and to maintain such  
reserves or sinking funds therefor as may be required under the  
33 bond covenants or any contracts, or as may be deemed necessary  
or desirable.

35 Source: New.

40A:31-12. Rates, rental, connection fees, or other charges  
37 as lien on real property; discontinuance of service.

Rates, rentals, connection fees or other charges levied in

1 accordance with N.J.S. 40A:31-10 and 40A:31-11, shall be a  
2 first lien or charge against the property benefited therefrom. If  
3 any part of the amount due and payable in rates, rentals,  
4 connection fees or other charges remains unpaid for 30 days  
5 following the date for the payment thereof, interest upon the  
6 amount unpaid shall accrue at a rate of interest to be  
7 determined in accordance with N.J.S. 40A:31-17. The governing  
8 body or bodies of the local unit or units may authorize payment  
9 of delinquent assessments on an installment basis in accordance  
10 with R.S. 54:5-19. Liens levied in accordance with this section  
11 shall be enforceable in the manner provided for real property  
12 tax liens in chapter 5 of Title 54 of the Revised Statutes.

13 Nothing in this section shall be construed to limit the right of  
14 a local unit or local units to discontinue service to any property  
15 for the failure to pay any amount owing within 30 days after the  
16 date the amount is due and payable, if written notice of the  
17 proposed discontinuance of service and of the reasons therefor  
18 has been given, within at least 10 days prior to the date of  
19 discontinuance, to the owner of record of the property. In the  
20 event that notice is provided by mail, the notice requirements  
21 shall be satisfied if the mailing is made to the last known  
22 address of the owner of record and is postmarked at least 10  
23 days prior to the date of discontinuance.

Source: R.S. 40:62-78, 40:62-79 and new.

25 40A:31-13. Improvements financed by means of local  
26 improvement assessments.

27 If the governing body of one or more local units determines  
28 that all or any part of the cost of construction of water supply  
29 facilities acquired or constructed pursuant to this act should be  
30 financed by local improvement assessments on real properties  
31 located within the local unit or units, the local unit or units shall  
32 pass a resolution or parallel resolutions on the intention to  
33 undertake and finance the water supply facilities and shall give  
34 notice thereof by advertising in one or more newspapers of  
35 general circulation in the local unit or units, and by notifying  
36 each concerned property owner by certified mail. The notice  
37 shall fix a date, time and place for a public hearing on the  
proposed action; except that the date of the hearing shall

1 not be earlier than two weeks after the mailing of notices to  
concerned property owners. If, after the hearing, the governing  
3 body or bodies decide to carry out the proposed local  
improvement. an ordinance or resolution, or parallel ordinances  
5 or resolutions shall be adopted declaring that determination.

Source: New.

7 40A:31-14. Local improvement assessment; procedures for  
and manner of assessment and collection.

9 Upon completion of the improvements made pursuant to  
N.J.S. 40A:31-13, the governing body or governing bodies shall  
11 assess the costs and expenses of the water supply facilities on  
the lands specially benefited therefrom in proportion to the  
13 benefits received; however, no county may levy local  
improvement assessments within a municipality without the  
15 approval of that municipality.

When completed, the assessments shall be filed as a report  
17 with the clerk or clerks of the governing body or bodies who  
shall give notice, by advertising in one or more newspapers of  
19 general circulation in the local unit or units, and by notifying  
each concerned property owner by certified mail, of the fact  
21 that the report has been filed and that the governing body or  
bodies will meet at a time and place designated in the notice to  
23 hear remonstrances against the report. The governing body or  
bodies shall meet at the time and place designated in the notice  
25 to hear remonstrances and may revise the report as may be  
deemed appropriate after which the report shall be filed with  
27 the clerk or clerks of the governing body or bodies, and the  
assessments shall constitute liens upon the lands so assessed for  
29 special benefits.

The clerk or clerks shall deliver a duplicate copy of the report  
31 to the appropriate officer or officers of the local unit or units  
who shall immediately thereafter send out by mail or deliver to  
33 owners of lands bills for the assessments. The officer or  
officers shall mail or deliver bills for an assessment in the  
35 manner required in connection with local improvements and  
shall keep record and books of assessments in the same manner  
37 required for local improvements under R.S. 40:56-31, at the  
expense of the local unit or units. The governing body or bodies

1 may make additional requirements for recording, accounting for  
and collecting assessments.

3 The governing body of a participating local unit may, by  
resolution provide that the owner of any real estate, located  
5 within the local unit upon which a local improvement assessment  
has been made, may pay the assessment in installments pursuant  
7 to the procedures contained in R.S. 40:56-35.

When an unpaid assessment, interest thereon or other charges  
9 for collection thereof remain in arrears on July 4, of the  
calendar year following the calendar year when the amount  
11 becomes in arrears, the appropriate officer of the local unit  
shall enforce the lien by selling the property in the manner set  
13 forth in chapter 5 of Title 54 of the Revised Statutes. Source:  
New.

15 40A:31-15. Bonds issued by one or more units; service  
payments. A local unit, pursuant to an agreement with one or  
17 more other local units or the State, may bear the entire cost of  
the acquisition or construction of water supply facilities and  
19 issue bonds therefor, or may share all or part of these costs with  
the other government. If the cost of acquisition or construction  
21 is shared, bonds may be issued by each of the participating  
governments for part or all of each government's respective  
23 costs, or a local unit may issue bonds for the entire cost of the  
water supply facilities to be acquired or constructed, with the  
25 share of the costs of each of the other participating  
governments to be repaid to the issuing local unit in annual  
27 installments with a period agreed to by the parties but not to  
exceed 40 years. The agreement shall prescribe the rate or  
29 rates of interests on the annual installments and such other  
terms and conditions as agreed to by the parties. Agreements  
31 made hereunder shall be authorized by resolution of the  
governing bodies of the participating parties, or in the case of  
33 the State, the Commissioner of the Department of  
Environmental Protection. Annual installment payment may  
35 include payment of the agreed share of a participating  
government's operating and maintenance costs, including the  
37 costs of any improvements, extensions, enlargements or  
reconstruction.

39 Source: C. 40:14C-9 (P.L. 1979, c. 451, s. 9).

1       **40A:31-16. Water facilities deemed a self-liquidating purpose**  
under certain circumstances.

3       a. Principal and interest payments on bonds issued in  
accordance with subsection c. of N.J.S. 40A:31-9 and operating  
5       and maintenance costs, as defined in N.J.S. 40A:2-45, for the  
water supply facilities, shall not be included in computing the  
7       gross or net indebtedness of the local unit issuing the bonds, if  
the cash receipts from fees, rents and other charges in a fiscal  
9       year are sufficient to meet operating and maintenance expenses  
as defined in N.J.S. 40A:2-45. In such cases, water supply  
11       facilities shall be deemed a self-liquidating purpose and interest  
and debt redemption charges, and maintenance and operating  
13       costs payable or accruing in that fiscal year shall be treated in  
the manner prescribed in N.J.S. 40A:2-45 through 40A:2-47;

15       b. (1) Annual installment payments to a local unit made  
pursuant to N.J.S. 40A:31-15 shall not be included in computing  
17       the gross or net indebtedness of the other participating  
government or governments, except that a self-liquidating  
19       purpose facility shall be subject to the provisions of N.J.S.  
40A:2-48; nor

21       (2) shall the principal and interest on bonds issued by a local  
unit to finance, pursuant to an agreement made in accordance  
23       with N.J.S. 40A:31-15, the share of the cost of the construction  
or acquisition, or of maintenance or operation of another  
25       government, be included in any computation of gross or net  
indebtedness of the local unit.

27       **Source: New.**

**40A:31-17. Payments by local unit to another local unit.**

29       The chief fiscal officer of another government having entered  
into contract pursuant to this act, shall cause to be paid to the  
31       local unit such amounts of money at such times as shall be  
stipulated in the contract and certified by the local unit. The  
33       power and obligation to make payments in accordance with the  
terms of the contract shall be unlimited, and the sums necessary  
35       therefore shall be included in the annual budget of the other  
government, which shall be irrevocably and unconditionally  
37       obligated to levy ad valorem taxes on all taxable property  
therein, without limits as to rate or amount, to the extent

1 necessary to make payments in full as due. Any part of a  
2 payment that remains unpaid for 30 days following the date  
3 payment is due, shall be assessed an interest charge at a rate of  
4 interest at least equal to the monthly index for the immediately  
5 preceding month for 20 year tax exempt bond yields as compiled  
6 by the Bond Buyer or any similar index agreed to by the parties.

7 Source: C. 40:14C-12 (P. L. 1979, c. 451, s. 12).

8 40A:31-18. Contracts entered into prior to appropriations  
9 therefore.

10 A local unit shall have the power to authorize, by resolution,  
11 officials to enter into and execute a contract pursuant to this  
12 act for such periods of time and under such terms and conditions  
13 as are deemed proper and necessary, notwithstanding that no  
14 appropriation was made or provided to cover the estimated cost  
15 of the contract. The governing body of each contracting local  
16 unit shall have full power and authority to do and perform all  
17 acts and things provided under the terms and conditions of the  
18 contract.

19 Source: C. 40:14C-10 (P.L. 1979, c. 451, s. 10)

20 40A:31-19. Right of entry onto private property to make  
21 surveys and investigations; interference therewith.

22 A local unit or local units may authorize officials or other  
23 agents of the local unit or units to enter upon any land or water  
24 for the purpose of making surveys, studies, investigations or  
25 inspections, and, at a reasonable hours, to enter any building or  
26 other structure using or suspected of using water supplied by the  
27 local unit or units. The officials or other agents are empowered  
28 to examine meters, service pipes or any equipment connected to  
29 the water supply facilities or service pipes for compliance with  
30 established standards and other requirements.

31 The supply of water to any property may be discontinued if  
32 the owner, lessee or other user of that property opposes or  
33 obstructs an authorized official or other agent in the  
34 performance of his duties. The discontinuance shall continue  
35 until the required investigations or inspection are made, and any  
36 alterations or repairs found to be necessary have been made and  
37 approved by the appropriate official or agent.

Source: R.S. 40:62-82.



1       **40A:31-20. Payments owing by private water companies.**

2       A private water company or industry which shall have entered  
3 into a contract with a local unit or local units pursuant to this  
4 act, shall pay at such time as may be provided in the contract,  
5 the sum of money certified to it on or before the date provided  
6 for payment in the contract. Any sum of money so certified by  
7 the local unit or units shall be a lien in favor of the local unit or  
8 units on and against the property of the private water company  
9 or industry. If the sum of money or any part thereof is not paid  
10 on or before the contract payment date, the unpaid amount shall  
11 bear interest at the rate to be determined in accordance with  
12 the provisions of N.J.S. 40A:31-17, until payment is complete  
13 and, the local unit or local units shall make and record, in the  
14 same manner as conveyances of interest in real property are  
15 recorded, a certificate setting forth the facts and giving notice  
16 of the existence and amount of the lien remaining unsatisfied.  
17 The lien shall have priority over all other liens theretofore or  
18 thereafter attaching, except those for federal, State and local  
19 taxes.

Source: C. 40:14C-13 (P.L. 1979, c. 451, s. 13).

21       **40A:31-21. Municipal extension to water supply facilities of a  
22 public utility; financing of the extension; and its sale or lease.**

23       A municipality in which water supply facilities are furnished  
24 by a private water company may, in accordance with the  
25 provisions of this act, provide for the construction, or  
26 construction and operation of an extension to an existing water  
27 supply system of a private water company for the purpose of  
28 supplying water services for the public and private uses of the  
29 municipality and its inhabitants. The cost of construction of the  
30 extension may be financed from the tax revenues of the  
31 municipality or by the issuance of general obligation bonds  
32 secured in any manner provided in N.J.S. 40A:31-9.

33       The extension may be leased or sold by the municipality  
34 pursuant to an ordinance adopted by its governing body to the  
35 private water company upon approval of the terms and  
36 conditions of the lease or sale by the Board of Public Utilities.  
37 If the extension has been financed pursuant to subsections b. or  
38 c. of N.J.S. 40A:31-9, the proceeds from the lease or sale

1 shall be refunded or credited pro rata to the ratepayers or the  
2 owners of property assessed, or their legal representatives or  
3 assigns, in such manner as may be determined by the governing  
body of the municipality.

5 Source: C. 40:62-61.2 through 40:62-61.5 (P.L. 1981, c. 497, §§  
1-4).

7 40A:31-22. Bonds as legal investments.

Notwithstanding any restrictions contained in any other law,  
9 the State and all public officers, local units, political  
subdivisions and public bodies, or agencies thereof, banks, trust  
11 companies, savings banks, savings and loan associations,  
investment companies, insurance companies, insurance  
13 businesses, and executors, administrators, guardians, trustees  
and other fiduciaries, may legally invest any sinking fund  
15 moneys or other funds belonging to them or within their control  
in any bonds authorized pursuant to this act, which bonds shall  
17 be authorized security for any and all public deposits. The bonds  
and the interest thereon shall be exempt from taxation except  
19 for transfer and inheritance taxes.

Source: C. 40:14C-11 (P.L. 1979, c. 451, s. 11).

21 40A:31-23. Nonimpairment of prior obligations to provide  
water supply services by public or private agencies; no facilities  
23 in utilities authority service area; prior approval of services in  
other local units; control by Board of Public Utilities.

25 a. Nothing contained in this act shall in any way impair the  
obligations previously assumed by any other public or private  
27 agency for the provision of water supply services and facilities  
to the citizens and industries of this State, or for any other  
29 purpose authorized by any law repealed by N.J.S. 40A:31-22.

31 b. In the event a municipal utilities authority has been  
established in a local unit pursuant to the provisions of the  
"municipal and county utilities authorities law," P.L. 1957, c.  
33 183; C. 40:14B-1 et seq., no local unit, or units shall establish  
any facility within the territory of that local unit which is  
35 competitive with any water supply facility operated by that  
authority.

37 c. No water supply services shall be provided in accordance  
with this act to users in another local unit without the prior  
39 approval of the governing body of that other local unit.

1 d. Subject to the terms of any agreement entered into by  
 2 participating local units or between a supplying and receiving  
 3 local unit or units and the provisions of this act, a local unit or  
 4 local units owning and operating water supply facilities in  
 5 accordance with the provisions of N.J.S. 40A:31-4, which supply  
 6 water to more than 1,000 billed customers within another local  
 7 unit, shall be subject to the jurisdiction, regulation and control  
 8 of the Board of Public Utilities in accordance with the  
 9 provisions of Title 48 of the Revised Statutes. The provisions of  
 10 this subsection shall not apply where water is supplied to  
 11 customers in another local unit at bulk rates.

Source: C. 40:14C-14 (P.L. 1979, c. 451, s. 14), R.S. 40:62-83,  
 13 C. 40:62-85.2 (P.L. 1975, c. 184, s. 1) and new.

40A:31-24. Statutes repealed.

15 The following acts are repealed:

P.L. 1979, c. 451 (C. 40:14C-1 through 40:14C-15);

17 R.S. 40:62-47 through 40:62-59;

R.S. 40:62-62 through 40:62-95; and

19 P.L. 1981, c. 497, §§. 1-4 (C. 40:62-61.1 through 40:62-61.4);  
 and

21 P.L. 1975, c. 184, s. 1 (C. 40:62-85.2).

2. Section 5 of P.L. 1983, c. 111 (C. 40A:4-35.1) is amended  
 23 to read as follows:

5. To the extent there is available surplus revenue collected  
 25 by a municipality pursuant to chapter 62 of Title 40 of the  
 Revised Statutes for supplying a utility service which is  
 27 regulated by the Board of Public Utilities pursuant to [R.S.  
 40:62-24 or section 1 of P.L. 1975, c. 184 (C. 40:62-85.2)]  
 29 subsection d. of N.J.S. 40A:31-23, an amount not to exceed 5%  
 of the annual costs of operation of the utility may be  
 31 transferred annually from the accounts of the municipal utility  
 and included in the local budget pursuant to N.J.S. 40A:4-35.

33 3. This act shall take effect immediately.

35

#### STATEMENT

37

This bill clarifies and systematizes county and municipal  
 39 powers to assure an adequate supply of water to their

1 residents. This bill is a result of recommendations on county  
and municipal water supply systems made by the County and  
3 Municipal Government Study Commission.

5 The bill authorizes a county or municipality, either alone or  
together with one or more other counties or municipalities, or  
any combination thereof, or the State or a private water  
7 company to acquire, construct, finance, operate and maintain  
water supply facilities, or parts thereof.

9

#### MUNICIPALITIES

11

#### Water Supply

13 Permits counties and municipalities to join with each other,  
private companies or the State to finance water supply facilities.

ASSEMBLY COUNTY GOVERNMENT  
AND  
REGIONAL AUTHORITIES COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 329**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED JANUARY 28, 1988

The Assembly County Government and Regional Authorities Committee favorably reports A-329 with Assembly Committee Amendments.

This bill clarifies and systematizes county and municipal powers to assure an adequate supply of water to their residents. This bill is a result of recommendations on county and municipal water supply systems made by the County and Municipal Government Study Commission.

The bill authorizes a county or municipality, either alone or together with one or more other counties or municipalities, or any combination thereof, or the State or a private water company to acquire, construct, finance, operate and maintain water supply facilities, or parts thereof.

The bill authorizes improvement assessment financing, tax district financing, and provisions for dealing with a customer's failure to pay.

The committee amended the bill to specifically authorize local units to accept loans for the purpose of constructing or financing water supply facilities.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

[FIRST REPRINT]  
ASSEMBLY, No. 329

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman FRELINGHUYSEN

1 AN ACT permitting counties and municipalities, either  
separately or jointly with other counties or municipalities, or  
3 private water companies, or the State, to finance, construct,  
acquire and operate water supply facilities, repealing various  
5 sections of statutory law, enacting chapter 31 of Title 40A of  
the New Jersey Statutes, and amending P.L. 1983, c. 111.

7

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

1.

11

TITLE 40A  
CHAPTER 31

13

COUNTY AND MUNICIPAL WATER SUPPLY

15

40A:31-1. Short Title.

17

40A:31-2. Legislative purpose.

19

40A:31-3. Definitions.

21

40A:31-4. Acquisition, construction or operation of water  
supply facilities by one or more local units.

23

40A:31-5. Powers.

25

40A:31-6. Surveys, maps and other costs; reimbursement from  
bond funds.

27

40A:31-7. Property damaged; repair, restoration or  
compensation.

29

40A:31-8. Relocation of public utility property.

31

40A:31-9. Bonds and security therefor.

33

40A:31-10. Rates, rental and other charges.

35

40A:31-11. Connection fees.

37

40A:31-12. Rates, rentals, connection fees or other charges as  
lien on real property; discontinuance of service.

39

40A:31-13. Improvements financed by means of local  
improvement assessments.

41

40A:31-14. Local improvement assessments; procedures for and  
manner of assessment and collection.

43

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

Matter underlined thus is new matter.  
Matter enclosed in superscript numerals has been adopted as follows:  
Assembly ACG committee amendments adopted February 1, 1988.

- 1 40A:31-15 Bonds issued by one or more units; debt service  
payments.
- 3 40A:31-16. Water facilities deemed a self-liquidating purpose  
under certain circumstances.
- 5 40A:31-17. Payments by local unit to another local unit.
- 40A:31-18. Contracts entered into prior to appropriations  
7 therefor.
- 40A:31-19. Right of entry onto private property to make  
9 surveys or inspections; interference therewith.
- 40A:31-20. Payments owing by private water companies.
- 11 40A:31-21. Municipal extension to water supply facilities of a  
public utility; financing of the extension; and its  
13 sale or lease.
- 40A:31-22. Bonds as legal investments.
- 15 40A:31-23. Nonimpairment of prior obligations to provide  
water supply service by public or private agencies;  
17 no facilities in utilities authority service areas;  
prior approval for service in other local units;  
19 control by Board of Public Utilities.
- 40A:31-24. Statutes repealed.
- 21 40A:31-1. Short title.  
This act shall be known and may be cited as the "County and  
23 Municipal Water Supply Act."
- 40A:31-2. Legislative purpose.
- 25 The Legislature finds and declares it to be in the public  
interest and to be the policy of this State to foster and promote  
27 by all reasonable means the collection, storage and distribution  
of an adequate supply of water for the inhabitants and business  
29 of the counties and municipalities of this State. It is the  
purpose of this act to further implement that policy by  
31 authorizing a county or municipality, either separately or in  
combination with one or more other counties or municipalities,  
33 or private water companies, or the State, to acquire, construct,  
maintain, operate or improve facilities for the accumulation,  
35 supply or distribution of water and to provide for the financing  
of these facilities.
- 37 Source: C. 40:14C-2 (P.L. 1979, c. 451, s. 2).
- 40A:31-3. Definitions.
- 39 As used in this act:

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

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

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

19 d. "Water supply facilities" means the plants, structures or  
other real and personal property, acquired, constructed or  
21 operated, or to be financed, acquired, constructed or operated,  
or any parts thereof, including, reservoirs, basins, dams, canals,  
23 aqueducts, standpipes, conduits, pipelines, mains, pumping  
stations, water distribution systems, compensating reservoirs,  
25 waterworks, or sources of water supply, well, purification or  
filtration plants, or other plants or works, connections, rights of  
27 flowage or diversion, and other plants, structures, boats,  
conveyances and other real and personal property, or rights  
29 therein, and appurtenances necessary or useful for the  
accumulation, supply or distribution of water.

31 Source: C. 40:14C-3 (P. L. 1979, c. 451, s. 3).

33 40A:31-4. Acquisition, construction or operation of water  
supply facilities by one or more local units. A local unit may,  
either separately or in combination with one or more other local  
35 units, a private water company subject to regulation by the  
Board of Public Utilities as a public utility, or the State,  
37 acquire, construct or operate a water supply facility upon a  
determination by the governing body of the local unit or each



1 participating local unit that the public health, safety, or welfare  
2 can best be assured by the acquisition, construction or operation  
3 of water supply, facilities by the local unit or units. The  
4 determination shall be by ordinance or resolution, or parallel  
5 ordinances or resolutions, as the case may be, of the governing  
6 body of the local unit or each of the participating local units.

7 No water supply facilities may be acquired, constructed or  
8 operated pursuant to this act until all necessary permits and  
9 approvals have been received from the appropriate State agency.  
10 Source: C. 40:14C-4 (P.L. 1979, c. 451, s. 4).

11 40A:31-5. Powers.

12 One or more local units adopting an ordinance or resolution in  
13 accordance with N.J.S. 40A:31-4 are authorized and empowered:

14 a. Alone or in combination with a private water company or  
15 the State, to acquire, construct, improve, extend, enlarge or  
16 reconstruct and finance water supply facilities, and to operate,  
17 manage and control all or part of these facilities and all  
18 properties relating thereto;

19 b. To issue bonds of the local unit or units to pay all or part  
20 of the cost of the water supply facilities;

21 c. To receive and accept from the federal or State  
22 Government, or any agency or instrumentality thereof, grants  
23 or loans<sup>1</sup> for, or in aid of, the planning, purchase, construction,  
24 improvement, extension, enlargement or reconstruction, or  
25 financing of water supply facilities, and to receive and accept  
26 from any source, contributions or money, property, labor or  
27 other things of value to be held, used and applied only for the  
28 purposes for which the grants or loans<sup>1</sup> and contributions are  
29 made;

30 d. To acquire in the name of the local unit or units by gift,  
31 purchase, or by the exercise of the right of eminent domain,  
32 such lands and rights and interests therein, including lands under  
33 water and riparian rights, and such personal property as may be  
34 deemed necessary for acquisition, construction, improvement,  
35 extension, enlargement or reconstruction, or for the efficient  
36 operation of any facilities acquired or constructed under the  
37 provisions of this act and to hold and dispose of all real and  
personal property so acquired;

1 e. To make and enter into all contracts and agreements  
2 necessary or incidental to the performance of the local unit's or  
3 units' duties and the execution of powers authorized under this  
4 act, and to employ consulting and other engineers,  
5 superintendents, managers, attorneys, financial or other  
6 consultants or experts, and such other employees and agents as  
7 may be deemed necessary, and to fix their compensation;

8 f. Subject to the provisions and restrictions set forth in the  
9 ordinance or resolution authorizing or securing any bonds issued  
10 under the provisions of this act, to enter into contracts with the  
11 federal or State Government, or any agency or instrumentality  
12 thereof, or with any other local unit, private corporation,  
13 copartnership, association or individual providing for, or relating  
14 to, water supply, which contracts may provide for the furnishing  
15 of water supply services either by or to the local unit or units,  
16 or the joint construction or operation of water supply facilities;

17 g. To fix and collect rates, fees, rents and other charges in  
18 accordance with this act;

19 h. To exercise any other powers necessary or incidental to  
20 the effectuation of the general purposes of this act.

21 Source: C. 40:14C-5 (P.L. 1979, c. 451, s. 5).

22 40A:31-6. Surveys, maps and other costs; reimbursement  
23 from bond funds.

24 a. Whenever a local unit pursuant to N.J.S. 40A:31-4 chooses  
25 to exercise powers granted hereunder, the local unit shall make  
26 or cause to be made such surveys, investigations, studies,  
27 borings, maps, plans, drawing and estimates of costs and of  
28 revenues as may be necessary.

29 b. The cost of the surveys, investigations, studies, borings,  
30 maps, plans, drawings and estimates, or of any other costs  
31 relating to the acquisition or construction of a water supply  
32 facility may be paid out of the general funds of the local unit or  
33 participating local units. The local unit or units may be  
34 reimbursed for part or all of the expenditures made in  
35 accordance with this subsection from the proceeds of bonds  
36 issued pursuant to this act.

37 Source: C. 40A:14C-6 (P.L. 1979, c. 451, s. 6).

38 40A:31-7. Property damaged; repair, restoration or  
39 compensation.

1 All public or private property damaged or destroyed in  
2 carrying out the powers granted by this act shall be restored or  
3 repaired and, as nearly as practicable, placed in its original  
4 condition, or adequate compensation shall be made therefor.

5 Source: C. 40:14C-6) (P.L. 1979, c. 451, s. 6).

6 40A:31-8. Relocation of public utility property. Whenever the  
7 local unit or units determine that it is necessary that any public  
8 utility facilities such as tracks, pipes, mains, conduits, cables,  
9 wires, towers, poles and other equipment and appliances of any  
10 public utility, as defined in R.S. 48:2-13, which are now, or  
11 hereafter may be located in, on, along, over or under any  
12 project, should be removed, the public utility owning or  
13 operating the facilities shall relocate or remove the same in  
14 accordance with the order of the local unit or units, the cost and  
15 expense of the relocation or removal, including the cost of  
16 installing the facilities in a new location or new locations, and  
17 the cost of any, lands, or any rights or interest in lands, and any  
18 other rights acquired to accomplish the relocation or removal,  
19 less the cost of any lands or any rights of the public utility paid  
20 to the public utility in connection with the relocation or removal  
21 of the property, shall be ascertained and paid as a part of the  
22 cost of the project. In case of any relocation or removal of  
23 facilities pursuant to this section, the public utility owning or  
24 operating the same, its successors or assigns, may maintain and  
25 operate the facilities, with the necessary appurtenances, in the  
26 new location, for as long a period, and upon the same terms and  
27 conditions, as it had the right to maintain and operate the  
28 facilities in their former location.

29 Source: New.

30 40A:31-9. Bonds and security therefor.

31 A local unit having adopted an ordinance or resolution  
32 pursuant to N.J.S. 40A:31-4, may issue bonds pursuant to the  
33 provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq. for  
34 all or part of the cost of water supply facilities. Proceeds from  
35 the bond shall be used solely for the payment of the costs of the  
36 water supply facilities for which the bonds have been authorized.

37 Bonds issued by a local unit or local units may be:

38 a. General obligation bonds payable from unlimited ad  
39 valorem taxes which may additionally be secured by a pledge of  
revenues from rates, rentals or other charges levied and

1 collected pursuant to the provisions of N.J.S. 40A:31-10 and  
40A:31-11;

3 b. Local improvement assessment bonds payable from local  
improvement assessments as provided in N.J.S. 40A:31-13,  
5 additionally secured by unlimited ad valorem taxes; or

7 c. General obligation bonds secured and payable from rates,  
rental and other charges levied and collected pursuant to N.J.S.  
9 40A:31-10 and 40A:31-11, and additionally secured by unlimited  
ad valorem taxes. Bonds may additionally be secured by a  
11 pledge of any grant subsidy or contribution received by the  
issuing local unit from the United States or the State of New  
13 Jersey, or any agency, instrumentality or political subdivision  
thereof.

Source: C. 40:14C-7 (P.L. 1979, c. 451, s. 7) and new.

15 40A:31-10. Rates, rentals and other charges.

17 After the commencement of operation of water supply  
facilities, the local unit or units may prescribe and, from  
time-to-time, alter rates or rentals to be charged to users of  
19 water supply services. Rates or rentals being in the nature of  
use or service charges or animal rental charges, shall be uniform  
21 and equitable for the same type and class of use or service of  
the facilities. Rates or rentals and types and classes of use and  
23 service may be based on any factors which the governing body or  
bodies of that local unit or units shall deem proper and equitable  
25 within the region served.

27 In fixing rates, rental and other charges for supplying water  
services, the local unit or units shall establish a rate structure  
that allows, within the limits of any lawful covenants made with  
29 bondholders, the local unit to:

31 a. Recover all costs of acquisition, construction or operation,  
including the costs of raw materials, administration, real or  
personal property, maintenance, taxes debt service charges, fees  
33 and an amount equal to any operating budget deficit occurring in  
the immediately preceding fiscal year;

35 b. Establish a surplus in an amount sufficient to provide for  
the reasonable anticipation of any contingency that may affect  
37 the operation of the utility, and, at the discretion of the local

1 unit or units, allow for the transfer of moneys from the budget  
for the water supply facilities to the local budget in accordance  
3 with section 5 of P.L. 1983, c. 111 (C. 40A:4-35.1).

No local unit or units shall, however impose any rates or  
5 rentals in excess of the cost of water actually used for any  
sprinkler system required to be installed in any residential  
7 health care facility pursuant to the "Health Care Facilities  
Planning Act," P.L. 1979, c. 136 (C. 26:2H-1 et seq.) and  
9 regulations promulgated thereunder or in any rooming or  
boarding house pursuant the "Rooming and Boarding House Act  
11 of 1979," P.L. 1979, c. 496 (C. 55:13B-1 et al.) and regulations  
promulgated theruender.

13 Source: C. 40:14C-8 (P.L. 1979, c. 451, s. 8) and C. 40:62-85.2.

40A:31-11. Connection fees.

15 In addition to rates and rentals, a separate charge in the  
nature of a connection fee or tapping fee for each connection of  
17 any property with the water supply system may be imposed upon  
the person making the connection or upon the owner or occupant  
19 of the property so connected. The connection charges shall be  
uniform within each class of users and the amount thereof shall  
21 not exceed the actual cost of the physical connection plus an  
amount representing the fair contribution of the connecting  
23 party toward the debt service charges on the bonds issued for  
the installation and construction of the water supply system  
25 previously paid by users of the water supply system, in order  
that the combination of the connection fee or tapping fee and  
27 the aforesaid water service charges shall be adequate to pay the  
expenses of operation and maintenance of the water supply  
29 facilities, including improvements, extensions, enlargements and  
replacements to water supply facilities, reserves, insurance,  
31 principal and interest on any bonds, and to maintain such  
reserves or sinking funds therefor as may be required under the  
33 bond covenants or any contracts, or as may be deemed necessary  
or desirable.

35 Source: New.

40A:31-12. Rates, rental, connection fees, or other charges  
37 as lien on real property; discontinuance of service.

Rates, rentals, connection fees or other charges levied in

1 accordance with N.J.S. 40A:31-10 and 40A:31-11, shall be a  
3 first lien or charge against the property benefited therefrom. If  
5 any part of the amount due and payable in rates, rentals,  
7 connection fees or other charges remains unpaid for 30 days  
9 following the date for the payment thereof, interest upon the  
11 amount unpaid shall accrue at a rate of interest to be  
13 determined in accordance with N.J.S. 40A:31-17. The governing  
15 body or bodies of the local unit or units may authorize payment  
17 of delinquent assessments on an installment basis in accordance  
19 with R.S. 54:5-19. Liens levied in accordance with this section  
21 shall be enforceable in the manner provided for real property  
23 tax liens in chapter 5 of Title 54 of the Revised Statutes.

13 Nothing in this section shall be construed to limit the right of  
15 a local unit or local units to discontinue service to any property  
17 for the failure to pay any amount owing within 30 days after the  
19 date the amount is due and payable, if written notice of the  
21 proposed discontinuance of service and of the reasons therefor  
23 has been given, within at least 10 days prior to the date of  
25 discontinuance, to the owner of record of the property. In the  
27 event that notice is provided by mail, the notice requirements  
29 shall be satisfied if the mailing is made to the last known  
31 address of the owner of record and is postmarked at least 10  
33 days prior to the date of discontinuance.

Source: R.S. 40:62-78, 40:62-79 and new.

25 40A:31-13. Improvements financed by means of local  
27 improvement assessments.

27 If the governing body of one or more local units determines  
29 that all or any part of the cost of construction of water supply  
31 facilities acquired or constructed pursuant to this act should be  
33 financed by local improvement assessments on real properties  
35 located within the local unit or units, the local unit or units shall  
37 pass a resolution or parallel resolutions on the intention to  
undertake and finance the water supply facilities and shall give  
notice thereof by advertising in one or more newspapers of  
general circulation in the local unit or units, and by notifying  
each concerned property owner by certified mail. The notice  
shall fix a date, time and place for a public hearing on the  
proposed action; except that the date of the hearing shall

1 not be earlier than two weeks after the mailing of notices to  
concerned property owners. If, after the hearing, the governing  
3 body or bodies decide to carry out the proposed local  
improvement, an ordinance or resolution, or parallel ordinances  
5 or resolutions shall be adopted declaring that determination.

Source: New.

7 40A:31-14. Local improvement assessment; procedures for  
and manner of assessment and collection.

9 Upon completion of the improvements made pursuant to  
N.J.S. 40A:31-13, the governing body or governing bodies shall  
11 assess the costs and expenses of the water supply facilities on  
the lands specially benefited therefrom in proportion to the  
13 benefits received; however, no county may levy local  
improvement assessments within a municipality without the  
15 approval of that municipality.

When completed, the assessments shall be filed as a report  
17 with the clerk or clerks of the governing body or bodies who  
shall give notice, by advertising in one or more newspapers of  
19 general circulation in the local unit or units, and by notifying  
each concerned property owner by certified mail, of the fact  
21 that the report has been filed and that the governing body or  
bodies will meet at a time and place designated in the notice to  
23 hear remonstrances against the report. The governing body or  
bodies shall meet at the time and place designated in the notice  
25 to hear remonstrances and may revise the report as may be  
deemed appropriate after which the report shall be filed with  
27 the clerk or clerks of the governing body or bodies, and the  
assessments shall constitute liens upon the lands so assessed for  
29 special benefits.

The clerk or clerks shall deliver a duplicate copy of the report  
31 to the appropriate officer or officers of the local unit or units  
who shall immediately thereafter send out by mail or deliver to  
33 owners of lands bills for the assessments. The officer or  
officers shall mail or deliver bills for an assessment in the  
35 manner required in connection with local improvements and  
shall keep record and books of assessments in the same manner  
37 required for local improvements under R.S. 40:56-31, at the  
expense of the local unit or units. The governing body or bodies

1 may make additional requirements for recording, accounting for  
and collecting assessments.

3 The governing body of a participating local unit may, by  
resolution provide that the owner of any real estate, located  
5 within the local unit upon which a local improvement assessment  
has been made, may pay the assessment in installments pursuant  
7 to the procedures contained in R.S. 40:56-35.

When an unpaid assessment, interest thereon or other charges  
9 for collection thereof remain in arrears on July 4, of the  
calendar year following the calendar year when the amount  
11 becomes in arrears, the appropriate officer of the local unit  
shall enforce the lien by selling the property in the manner set  
13 forth in chapter 5 of Title 54 of the Revised Statutes. Source:  
New.

15 40A:31-15. Bonds issued by one or more units; service  
payments. A local unit, pursuant to an agreement with one or  
17 more other local units or the State, may bear the entire cost of  
the acquisition or construction of water supply facilities and  
19 issue bonds therefor, or may share all or part of these costs with  
the other government. If the cost of acquisition or construction  
21 is shared, bonds may be issued by each of the participating  
governments for part or all of each government's respective  
23 costs, or a local unit may issue bonds for the entire cost of the  
water supply facilities to be acquired or constructed, with the  
25 share of the costs of each of the other participating  
governments to be repaid to the issuing local unit in annual  
27 installments with a period agreed to by the parties but not to  
exceed 40 years. The agreement shall prescribe the rate or  
29 rates of interests on the annual installments and such other  
terms and conditions as agreed to by the parties. Agreements  
31 made hereunder shall be authorized by resolution of the  
governing bodies of the participating parties, or in the case of  
33 the State, the Commissioner of the Department of  
Environmental Protection. Annual installment payment may  
35 include payment of the agreed share of a participating  
government's operating and maintenance costs, including the  
37 costs of any improvements, extensions, enlargements or  
reconstruction.

39 Source: C. 40:14C-9 (P.L. 1979, c. 451, s. 9).



1       **40A:31-16. Water facilities deemed a self-liquidating purpose**  
under certain circumstances.

3       **a. Principal and interest payments on bonds issued in**  
accordance with subsection c. of N.J.S. 40A:31-9 and operating  
5       **and maintenance costs, as defined in N.J.S. 40A:2-45, for the**  
water supply facilities, shall not be included in computing the  
7       **gross or net indebtedness of the local unit issuing the bonds, if**  
the cash receipts from fees, rents and other charges in a fiscal  
9       **year are sufficient to meet operating and maintenance expenses**  
as defined in N.J.S. 40A:2-45. In such cases, water supply  
11       **facilities shall be deemed a self-liquidating purpose and interest**  
and debt redemption charges, and maintenance and operating  
13       **costs payable or accruing in that fiscal year shall be treated in**  
the manner prescribed in N.J.S. 40A:2-45 through 40A:2-47;

15       **b. (1) Annual installment payments to a local unit made**  
pursuant to N.J.S. 40A:31-15 shall not be included in computing  
17       **the gross or net indebtedness of the other participating**  
government or governments, except that a self-liquidating  
19       **purpose facility shall be subject to the provisions of N.J.S.**  
40A:2-48; nor

21       **(2) shall the principal and interest on bonds issued by a local**  
unit to finance, pursuant to an agreement made in accordance  
23       **with N.J.S. 40A:31-15, the share of the cost of the construction**  
or acquisition, or of maintenance or operation of another  
25       **government, be included in any computation of gross or net**  
indebtedness of the local unit.

27       **Source: New.**

**40A:31-17. Payments by local unit to another local unit.**

29       **The chief fiscal officer of another government having entered**  
into contract pursuant to this act, shall cause to be paid to the  
31       **local unit such amounts of money at such times as shall be**  
stipulated in the contract and certified by the local unit. The  
33       **power and obligation to make payments in accordance with the**  
terms of the contract shall be unlimited, and the sums necessary  
35       **therefore shall be included in the annual budget of the other**  
government, which shall be irrevocably and unconditionally  
37       **obligated to levy ad valorem taxes on all taxable property**  
therein, without limits as to rate or amount, to the extent

1 necessary to make payments in full as due. Any part of a  
2 payment that remains unpaid for 30 days following the date  
3 payment is due, shall be assessed an interest charge at a rate of  
4 interest at least equal to the monthly index for the immediately  
5 preceding month for 20 year tax exempt bond yields as compiled  
6 by the Bond Buyer or any similar index agreed to by the parties.

7 Source: C. 40:14C-12 (P. L. 1979, c. 451, s. 12).

8 40A:31-18. Contracts entered into prior to appropriations  
9 therefore.

10 A local unit shall have the power to authorize, by resolution,  
11 officials to enter into and execute a contract pursuant to this  
12 act for such periods of time and under such terms and conditions  
13 as are deemed proper and necessary, notwithstanding that no  
14 appropriation was made or provided to cover the estimated cost  
15 of the contract. The governing body of each contracting local  
16 unit shall have full power and authority to do and perform all  
17 acts and things provided under the terms and conditions of the  
18 contract.

19 Source: C. 40:14C-10 (P.L. 1979, c. 451, s. 10)

20 40A:31-19. Right of entry onto private property to make  
21 surveys and investigations; interference therewith.

22 A local unit or local units may authorize officials or other  
23 agents of the local unit or units to enter upon any land or water  
24 for the purpose of making surveys, studies, investigations or  
25 inspections, and, at a reasonable hours, to enter any building or  
26 other structure using or suspected of using water supplied by the  
27 local unit or units. The officials or other agents are empowered  
28 to examine meters, service pipes or any equipment connected to  
29 the water supply facilities or service pipes for compliance with  
30 established standards and other requirements.

31 The supply of water to any property may be discontinued if  
32 the owner, lessee or other user of that property opposes or  
33 obstructs an authorized official or other agent in the  
34 performance of his duties. The discontinuance shall continue  
35 until the required investigations or inspection are made, and any  
36 alterations or repairs found to be necessary have been made and  
37 approved by the appropriate official or agent.

Source: R.S. 40:62-82.

1       **40A:31-20. Payments owing by private water companies.**

3       A private water company or industry which shall have entered  
5       into a contract with a local unit or local units pursuant to this  
7       act, shall pay at such time as may be provided in the contract,  
9       the sum of money certified to it on or before the date provided  
11       for payment in the contract. Any sum of money so certified by  
13       the local unit or units shall be a lien in favor of the local unit or  
15       units on and against the property of the private water company  
17       or industry. If the sum of money or any part thereof is not paid  
19       on or before the contract payment date, the unpaid amount shall  
21       bear interest at the rate to be determined in accordance with  
23       the provisions of N.J.S. 40A:31-17, until payment is complete  
25       and, the local unit or local units shall make and record, in the  
27       same manner as conveyances of interest in real property are  
29       recorded, a certificate setting forth the facts and giving notice  
31       of the existence and amount of the lien remaining unsatisfied.  
33       The lien shall have priority over all other liens theretofore or  
35       thereafter attaching, except those for federal, State and local  
37       taxes.

Source: C. 40:14C-13 (P.L. 1979, c. 451, s. 13).

21       **40A:31-21. Municipal extension to water supply facilities of a  
23       public utility; financing of the extension; and its sale or lease.**

25       A municipality in which water supply facilities are furnished  
27       by a private water company may, in accordance with the  
29       provisions of this act, provide for the construction, or  
31       construction and operation of an extension to an existing water  
33       supply system of a private water company for the purpose of  
35       supplying water services for the public and private uses of the  
37       municipality and its inhabitants. The cost of construction of the  
      extension may be financed from the tax revenues of the  
      municipality or by the issuance of general obligation bonds  
      secured in any manner provided in N.J.S. 40A:31-9.

33       The extension may be leased or sold by the municipality  
35       pursuant to an ordinance adopted by its governing body to the  
37       private water company upon approval of the terms and  
      conditions of the lease or sale by the Board of Public Utilities.  
      If the extension has been financed pursuant to subsections b. or  
      c. of N.J.S. 40A:31-9, the proceeds from the lease or sale

1 shall be refunded or credited pro rata to the ratepayers or the  
owners of property assessed, or their legal representatives or  
3 assigns, in such manner as may be determined by the governing  
body of the municipality.

5 Source: C. 40:62-61.2 through 40:62-61.5 (P.L. 1981, c. 497, §§  
1-4).

7 40A:31-22. Bonds as legal investments.

Notwithstanding any restrictions contained in any other law,  
9 the State and all public officers, local units, political  
subdivisions and public bodies, or agencies thereof, banks, trust  
11 companies, savings banks, savings and loan associations,  
investment companies, insurance companies, insurance  
13 businesses, and executors, administrators, guardians, trustees  
and other fiduciaries, may legally invest any sinking fund  
15 moneys or other funds belonging to them or within their control  
in any bonds authorized pursuant to this act, which bonds shall  
17 be authorized security for any and all public deposits. The bonds  
and the interest thereon shall be exempt from taxation except  
19 for transfer and inheritance taxes.

Source: C. 40:14C-11 (P.L. 1979, c. 451, s. 11).

21 40A:31-23. Nonimpairment of prior obligations to provide  
water supply services by public or private agencies; no facilities  
23 in utilities authority service area; prior approval of services in  
other local units; control by Board of Public Utilities.

25 a. Nothing contained in this act shall in any way impair the  
obligations previously assumed by any other public or private  
27 agency for the provision of water supply services and facilities  
to the citizens and industries of this State, or for any other  
29 purpose authorized by any law repealed by N.J.S. 40A:31-22.

b. In the event a municipal utilities authority has been  
31 established in a local unit pursuant to the provisions of the  
"municipal and county utilities authorities law," P.L. 1957, c.  
33 183; C. 40:14B-1 et seq., no local unit, or units shall establish  
any facility within the territory of that local unit which is  
35 competitive with any water supply facility operated by that  
authority.

37 c. No water supply services shall be provided in accordance  
with this act to users in another local unit without the prior  
39 approval of the governing body of that other local unit.

1       d. Subject to the terms of any agreement entered into by  
 2 participating local units or between a supplying and receiving  
 3 local unit or units and the provisions of this act, a local unit or  
 4 local units owning and operating water supply facilities in  
 5 accordance with the provisions of N.J.S. 40A:31-4, which supply  
 6 water to more than 1,000 billed customers within another local  
 7 unit, shall be subject to the jurisdiction, regulation and control  
 8 of the Board of Public Utilities in accordance with the  
 9 provisions of Title 48 of the Revised Statutes. The provisions of  
 10 this subsection shall not apply where water is supplied to  
 11 customers in another local unit at bulk rates.

Source: C. 40:14C-14 (P.L. 1979, c. 451, s. 14), R.S. 40:62-83,  
 13 C. 40:62-85.2 (P.L. 1975, c. 184, s. 1) and new.

40A:31-24. Statutes repealed.

15 The following acts are repealed:

P.L. 1979, c. 451 (C. 40:14C-1 through 40:14C-15);

17 R.S. 40:62-47 through 40:62-59;

R.S. 40:62-62 through 40:62-95; and

19 P.L. 1981, c. 497, §§. 1-4 (C. 40:62-61.1 through 40:62-61.4);  
 and

21 P.L. 1975, c. 184, s. 1 (C. 40:62-85.2).

2. Section 5 of P.L. 1983, c. 111 (C. 40A:4-35.1) is amended  
 23 to read as follows:

5. To the extent there is available surplus revenue collected  
 25 by a municipality pursuant to chapter 62 of Title 40 of the  
 Revised Statutes for supplying a utility service which is  
 27 regulated by the Board of Public Utilities pursuant to [R.S.  
 40:62-24 or section 1 of P.L. 1975, c. 184 (C. 40:62-85.2)]  
 29 subsection d. of N.J.S. 40A:31-23, an amount not to exceed 5%  
 of the annual costs of operation of the utility may be  
 31 transferred annually from the accounts of the municipal utility  
 and included in the local budget pursuant to N.J.S. 40A:4-35.

33 (cf: P.L. 1983, c. 111, s. 5)

3. This act shall take effect immediately.

35

## MUNICIPALITIES

37

### Water Supply

39 Permits counties and municipalities to join with each other,  
 private companies or the State to finance water supply facilities.

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**ASSEMBLY, No. 329**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 20, 1988

The Senate County and Municipal Government reports favorably and with committee amendments Assembly Bill No. 329 (1R).

Assembly Bill No. 329 (1R), as amended by the committee, clarifies and systematizes county and municipal powers to assure an adequate supply of water to their residents. This bill is a result of recommendations on county and municipal water supply systems made by the County and Municipal Government Study Commission in its 1984 report, New Jersey's Local Infrastructure: An Assessment of Needs.

The bill authorizes a county or municipality, either alone or together with one or more other counties or municipalities, or any combination thereof, or the State or a private water company to acquire, construct, finance, operate and maintain water supply facilities, or parts thereof.

The bill authorizes improvement assessment financing, tax district financing, and provisions for dealing with a customer's failure to pay, and specifically authorizes local units to accept loans for the purpose of constructing or financing water supply facilities.

The committee amended the bill to establish a uniform formula for the calculation of connection fees to be charged for tapping into the water supply system. These amendments would bring the language of A329 (1R) into conformity with the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) and the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) with regard to the calculation of connection fees.

The uniform formula added by these amendments originated as a result of a series of court cases in which it was determined that, in computing connection charges, authorities may include not only the actual cost of the connection, but also a fair contribution by the new connector to the costs of the entire system. A new connector cannot

be required to defray more than an equitable portion of the authority's debt, according to those decisions. It was in response to those court rulings, in particular Megalino v. Township Committee of Eagleswood Tp., 103 N.J. 144 (1986), that this language was originally added to the "sewerage authorities law" and the "municipal and county utilities authorities law" pursuant to P.L.1985, c.526.

The committee also amended the bill to make various technical and typographical corrections in its language.

A 329

Bills Signed

Page Three

June 29, 1989

A-329, sponsored by Assemblyman Rodney Frelinghuysen, R-Morris. The bill establishes the County Municipal Water Supply Act, based upon a 1984 recommendation of the County and Municipal Government Study Commission.

The bill takes effect immediately.

A-380, sponsored by Assemblywoman Barbara Kalik, D-Burlington. The bill permits deputy mayors to solemnize marriages when authorized to do so by their mayors.

The bill takes effect immediately.

A-790, sponsored by Assemblyman Thomas Shusted, R-Camden. The bill provides for mandatory restitution and a \$500 penalty for certain theft of services offenses.

The bill takes effect immediately.

A-1284, sponsored by Assemblyman Dennis Riley, D-Camden. The bill makes a technical revision of a statutory reference by the Office of Legislative Services.

The bill takes effect immediately.

A-2118, sponsored by Assemblywoman Jackie Mattison, D-Essex. The bill requires a municipal court to impose additional fines for repeat violations of ordinances, and allows municipalities to waive additional fines.

The bill takes effect immediately.

-more-