

58:1B-1 to 58:1B-25

LEGISLATIVE HISTORY CHECKLIST

NJSA 58:1B-1 to 58:1B-25 ("Water Supply Authority Act"--establish State authority)

LAWS 1981 CHAPTER 293

Bill No. S1612

Sponsor(s) Dodd

Date Introduced Nov. 24, 1980

Committee: Assembly

Senate Energy & Environment

Amended during passage Yes No Senate Committee substitute enacted. Substituted for A2349 (not attached since identical to S1612)

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Reports Yes No

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LEGISLATIVE HISTORY
S1612

293 10-7-81 81

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1612

STATE OF NEW JERSEY

ADOPTED JUNE 15, 1981

AN ACT creating the New Jersey Water Supply Authority, empowering the authority to acquire, finance, construct and operate water systems under certain circumstances, authorizing the issuance of bonds of the authority, and providing for the terms and security thereof.

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

1 1. This act shall be known and may be cited as the "New Jersey
2 Water Supply Authority Act."

1 2. The Legislature finds that a State authority should be
2 established to acquire, finance, construct and operate water systems
3 pursuant to the provisions of this act.

1 3. As used in this act:

2 a. "Authority" means the New Jersey Water Supply Authority
3 created by this act;

4 b. "Bonds" means bonds, notes, or other obligations issued or
5-7 authorized pursuant to this act;

8 c. "Compensating reservoir" means the structures, facilities and
9 appurtenances for the impounding, transportation and release of
10 water for the replenishment in periods of drought or at other
11 necessary times of all or a part of waters in or bordering the State
12 diverted into a project;

13 d. "Cost" as applied to a project means the cost of acquisition
14 and construction thereof, the cost of acquisition of lands, rights-
15 of-way, property rights, easements, and interests required by the
16 authority for acquisition and construction, the cost of demolishing
17 or removing any buildings or structures on land so acquired, includ-
18 ing the cost of acquiring any lands to which buildings or structures
19 may be moved, the cost of acquiring or constructing and equipping
20 an office of the authority, the cost of machinery, furnishings, and
21 equipment, financing expenses, reserves, interest prior to and dur-
22 ing construction and for no more than 6 months after completion
23 of construction, engineering, expenses of research and development

24 with respect to any project, legal expenses, plans, specifications,
 25 surveys, estimates of cost and revenues, working capital, other
 26 expenses necessary or incident to determining the feasibility or
 27 practicability of acquiring or constructing a project, administra-
 28 tive expense, and such other expense as may be necessary or inci-
 29 dent to the acquisition or construction of the project;

30 e. "Construct" and "construction" means and includes acts of
 31 construction, reconstruction, replacement, extension, improvement
 32 and betterment of a project;

33 f. "Department" means the Department of Environmental Pro-
 34 tection;

35 g. "Governmental agency" means any municipality, county, or
 36 any agency thereof, the State Government and any instrumentality
 37 or subdivision thereof;

38 h. "Project" means a water system or any part thereof;

39 i. "Real property" means lands both within or without the State,
 40 and improvements thereof or thereon, or any rights or interests
 41 therein;

42 j. "Revenue" means all rents, fees and charges for water sold
 43 from, or for the use and services of any project of the authority and
 44 payments in respect of any loans or advances made to governmental
 45 agencies pursuant to this act;

46 k. "Service charges" means water service charges established or
 47 collected by the authority pursuant to this act;

48 l. "Water system" means the plants, structures and other real
 49 and personal property financed, acquired, constructed or operated
 50 or to be financed, acquired, constructed or operated by the authority
 51 under this act or additions and improvements thereto, including
 52 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
 53 pipelines, mains, pumping stations, water transmission systems,
 54 compensating reservoirs, waterworks or sources of water supply,
 55 wells, purification or filtration plants or other plants, equipment
 56 and works, connections, rights of flowage or diversion, and other
 57 plants, structures, boats, conveyances, and other real and personal
 58 property and rights therein, and appurtenances necessary or useful
 59 and convenient for the accumulation, supply, treatment or trans-
 60 mission of water.

1 4. a. There is established in but not of the Department of Envi-
 2 ronmental Protection a public body corporate and politic, with
 3 corporate succession, to be known as the "New Jersey Water Supply
 4 Authority." The authority is hereby constituted as an instru-
 5 mentality of the State exercising public and essential governmental
 6 functions.

7 b. The authority shall consist of the Commissioner of Environ-
8 mental Protection, who shall be a member ex officio with full voting
9 rights, and six public members appointed by the Governor with the
10 advice and consent of the Senate for terms of 3 years; provided
11 that of the members of the authority first appointed by the
12 Governor, two shall serve for terms of 1 year, two shall serve for
13 terms of 2 years, and two shall serve for terms of 3 years, of whom
14 two shall be recognized experts in the fields of water resource
15 management and distribution, and public finance, respectively. The
16 remaining public members appointed by the Governor shall repre-
17 sent the following: the agricultural community, industrial water
18 users, residential water users and private watershed associations.
19 Each member shall hold office for the term of his appointment and
20 until his successor shall have been appointed and qualified. A
21 member shall be eligible for reappointment. Any vacancy in the
22 membership occurring other than by expiration of term shall be
23 filled in the same manner as the original appointment but for the
24 unexpired term only.

25 c. Each appointed member may be removed from office by the
26 Governor, for cause, after a public hearing, and may be suspended
27 by the Governor pending the completion of the hearing. Each
28 member before entering upon his duties shall take and subscribe
29 an oath to perform the duties of his office faithfully, impartially
30 and justly to the best of his ability. A record of these oaths shall
31 be filed in the office of the Secretary of State.

32 d. The chairman, who shall be the chief executive officer of the
33 authority, shall be the Commissioner of Environmental Protection,
34 and the members of the authority shall elect one of their number as
35 vice chairman thereof. The authority shall elect a secretary and a
36 treasurer who need not be members, and the same person may be
37 elected to serve both as secretary and treasurer. The powers of the
38 authority shall be vested in the members thereof in office from time
39 to time and four members of the authority shall constitute a quorum
40 at any meeting thereof. Action may be taken and motions and
41 resolutions adopted by the authority at any meeting thereof by the
42 affirmative vote of at least four members of the authority. No
43 vacancy in the membership of the authority shall impair the right
44 of a quorum of the members to exercise all the powers and perform
45 all the duties of the authority.

46 e. No resolution or other action of the authority providing for
47 the issuance of bonds or the refunding of bonds shall be adopted or
48 otherwise made effective by the authority without the prior
49 approval, in writing, of the Governor and of the State Treasurer

50 or the Comptroller of the Treasury. A true copy of the minutes of
51 every meeting of the authority shall be prepared and forthwith
52 delivered to the Governor. No action taken at such meeting by the
53 authority shall have effect until 10 days, exclusive of Saturdays,
54 Sundays and public holidays, after the copy of the minutes has
55 been so delivered. If, in this 10-day period, the Governor returns
56 the copy of the minutes with a veto of any action taken by the au-
57 thority at that meeting, the action shall be of no effect.

58 f. Each member and the treasurer of the authority shall execute
59 a bond to be conditioned upon the faithful performance of the duties
60 of the member or treasurer, as the case may be, in a form and
61 amount as may be prescribed by the Comptroller of the Treasury.
62 The bonds shall be filed in the office of the Secretary of State. At
63 all times thereafter the members and treasurer of the authority
64 shall maintain these bonds in full force. The costs of the bonds
65 shall be borne by the authority.

66 g. The members of the authority shall serve without compensa-
67 tion, but the authority shall reimburse its members for actual
68 expenses necessarily incurred in the discharge of their duties. No
69 officer or employee of the State shall be deemed to have forfeited
70 or shall forfeit his office or employment or any benefits or emolu-
71 ments thereof by reason of his acceptance of the office of ex officio
72 member of the authority.

73 h. The Commissioner of Environmental Protection may design-
74 ate an officer or employee of the department to represent him at
75 meetings of the authority, and the designee may lawfully vote and
76 otherwise act on behalf of the commissioner. The designation shall
77 be in writing delivered to the authority and shall continue in effect
78 until revoked or amended by writing delivered to the authority.

79 i. The authority may be dissolved by act of the Legislature on
80 condition that the authority has no debts or obligations outstanding
81 or that provision has been made for the payment or retirement of
82 debts or obligations. Upon a dissolution of the authority all prop-
83 erty, funds and assets thereof shall be vested in the State.

1 5. a. All water supply facilities, owned or operated by the State,
2 either now or hereafter, are transferred to the authority. The au-
3 thority shall operate these facilities pursuant to the statutory
4 authorizations enabling the State to operate and manage the
5 facilities. The Delaware and Raritan Canal Transmission Complex,
6 the Spruce Run-Round Valley Reservoir Complex and all other
7 State-operated facilities now or hereafter authorized to be designed,
8 constructed and operated pursuant to any past or future bond

9 issues, including the "Water Supply Bond Act of 1981," are
10 specifically included as State water supply facilities.

11 b. The revenue from all State water supply facilities, the dis-
12 position of which is not otherwise expressly provided for by law, is
13 pledged to the authority for the purposes provided herein.

1 6. a. The authority is hereby empowered to design, initiate,
2 acquire, construct, maintain, repair and operate projects or cause
3 the same to be operated pursuant to a lease, sublease, or agreement
4 with any person or governmental agency, and to issue bonds of the
5 authority to finance these projects, payable from the revenues and
6 other funds of the authority. All projects undertaken by the au-
7 thority shall conform to the recommendations of the New Jersey
8 Statewide Water Supply Plan.

9 b. The authority shall be subject to compliance with all State
10 health and environmental protection statutes and regulations and
11 any other statutes and regulations not inconsistent herewith. The
12 authority may, upon the request of a governmental agency, enter
13 into a contract to provide services for any project.

14 c. The authority shall consult with the Water Supply Advisory
15 Council from time to time prior to final action on any project or
16 undertaking authorized pursuant to this section.

1 7. Except as otherwise limited by the act, authority shall have
2 power:

3 a. To sue and be sued.

4 b. To have an official seal and alter the same at pleasure.

5 c. To make and alter bylaws for its organization and internal
6 management and for the conduct of its affairs and business.

7 d. To maintain an office at such place or places within the State
8 as it may determine.

9 e. To acquire, lease as lessee or lessor, rent, hold, use and dis-
10 pose of real or personal property for its purposes.

11 f. To borrow money and to issue its negotiable bonds and to
12 secure the same by a mortgage on its property or any part thereof
13 and otherwise to provide for and secure the payment thereof and to
14 provide for the rights of the holders thereof.

15 g. To fix and revise from time to time and charge and collect
16 rents, fees and charges for any of the services rendered by the
17 authority, which shall be equitably assessed.

18 h. To procure insurance against any losses in connection with
19 its property, operations or assets in such amounts and from such
20 insurers as it deems desirable.

21 i. Subject to any agreement with bondholders to invest moneys
22 of the authority not required for immediate use, including proceeds

23 from the sale of any bonds, in such obligations, securities and other
24 investments as the authority shall deem prudent.

25 j. To appoint and employ an executive director and such addi-
26 tional officers who need not be members of the authority and
27 accountants, financial advisors or experts and such other or differ-
28 ent officers, agents and employees as it may require and determine
29 their qualifications, terms of office, duties and compensation, all
30 without regard to the provisions of Title 11, Civil Service, of the
31 Revised Statutes, except with respect to those officers and em-
32 ployees of the Water Supply Facilities Element who are trans-
33 ferred to the authority pursuant to section 24 of this act, and these
34 officers and employees shall remain subject to the provisions of
35 that Title.

36 k. To contract for and to accept any gifts or grants or loans of
37 funds or property or financial or other aid in any form from the
38 United States of America or any agency or instrumentality thereof,
39 or from the State or any agency, instrumentality or political sub-
40 division thereof, or from any other source and to comply, subject
41 to the provisions of this act, with the terms and conditions thereof.

42 l. To acquire, hold, rent, lease, use and dispose of real or per-
43 sonal property in the exercise of its powers and the performance
44 of its duties under this act.

45 m. To acquire, subject to the provisions of any other statute, in
46 the name of the authority by purchase or otherwise, on such terms
47 and conditions and in such manner as it may deem proper, except
48 with respect to property owned by the State, by the exercise of the
49 power of eminent domain, any land and other property, which it
50 may determine is reasonably necessary for any of its projects and
51 any and all rights, title and interest in that land and other prop-
52 erty, including, providing there is no prudent and feasible alterna-
53 tive, public lands, reservations, highways or parkways, owned by or
54 in which the State or any county, municipality, public corporation,
55 or other political subdivision of the State has any right, title or
56 interest, or parts thereof or rights therein and any fee simple
57 absolute or any lesser interest in private property, and any fee
58 simple absolute in, easements upon or the benefit of restrictions
59 upon, abutting property to preserve and protect the project.

60 n. To do and perform any acts and things authorized by the act
61 under, through, or by means of its officers, agents or employees or
62 by contracts with any person.

63 o. To establish and enforce rules and regulations for the use and
64 operation of its projects and the conduct of its activities, and
65 provide for the policing and the security of its projects.

66 p. To do any and all things necessary or convenient to carry out
67 its purposes in accordance with the powers given and granted in
68 the act.

1 8. a. Upon the exercise of the power of eminent domain, the
2 compensation to be paid thereunder shall be ascertained and paid
3 in the manner provided in P. L. 1971, c. 361 (C. 20:3-1 et seq.).

4 b. Whenever the authority shall determine that it is necessary
5 that any public utility facilities such as tracks, pipes, mains, con-
6 duits, cables, wires, towers, poles and other equipment and appli-
7 ances of any public utility, as defined in R. S. 48:2-13, which are
8 now, or hereafter may be, located in, on, along, over or under any
9 project, should be removed from such project, the public utility
10 owning or operating such facilities shall relocate or remove the
11 same in accordance with the order of the authority; provided how-
12 ever, that the cost and expenses of such relocation or removal, in-
13 cluding the cost of installing such facilities in a new location or new
14 locations, and the cost of any lands, or any rights or interests in
15 lands, and any other rights acquired to accomplish such relocation
16 or removal, less the cost of any lands or any rights of the public
17 utility paid to the public utility in connection with the relocation or
18 removal of such property, shall be ascertained and paid by the au-
19 thority as a part of the cost of such project. In case of any such
20 relocation or removal of facilities, as aforesaid, the public utility
21 owning or operating the same, its successors or assigns, may
22 maintain and operate such facilities, with the necessary appurte-
23 nances, in the new location, for as long a period, and upon the same
24 terms and conditions, as it had the right to maintain and operate
25 such facilities in their former location.

1 9. a. The authority is hereby empowered from time to time to
2 issue its bonds in such principal amounts as in the opinion of the
3 authority shall be necessary to provide sufficient funds for any of
4 its corporate purposes, including the payment, funding or refunding
5 of the principal of, or interest or redemption premiums on, any
6 bonds issued by it whether the bonds or interest to be funded or re-
7 funded have or have not become due the establishment or increase
8 of such reserves to secure or to pay such bonds or interest thereon
9 and all other costs or expenses of the agency incident to and
10 necessary to carry out its corporate purposes and powers.

11 b. Except as may be otherwise expressly provided in the act or
12 by the authority, every issue of bonds shall be general obligations
13 payable out of and secured by any revenues or funds of the au-
14 thority, subject only to any agreements with holders of particular
15 bonds pledging any particular revenues or funds. The authority

16 may issue such types of bonds as it may determine, including, with-
17 out limiting the generality of the foregoing bonds as to which the
18 principal and interest are payable (1) exclusively from the revenues
19 and funds derived from or relating to the project or part thereof
20 financed with the proceeds of the bonds; (2) exclusively from the
21 revenues and funds derived from or relating to certain designated
22 projects or parts thereof, whether or not the same are financed in
23 whole or in part from the proceeds of bonds; (3) exclusively from
24 certain designated funds of the authority; or (4) from the revenues
25 and funds of the authority generally. The bonds may be addi-
26 tionally secured by a pledge of any grant, subsidy or contribution
27 from the United States of America or any agency or instru-
28 mentality thereof or the State of New Jersey or any agency,
29 instrumentality or political subdivision thereof, or any person,
30 or a pledge of any income or revenues, funds or moneys of the
31 authority from any source whatsoever.

32 c. Whether or not the bonds are of such form and character as
33 to be negotiable instruments under the terms of Title 12A, Com-
34 mercial Transactions, New Jersey Statutes, the bonds are hereby
35 made negotiable instruments within the meaning of and for all the
36 purposes of said Title 12A, subject only to the provisions of the
37 bonds for registration.

38 d. Bonds of the authority shall be authorized by a resolution or
39 resolutions of the authority and may be issued in one or more series
40 and shall bear such date, or dates, mature at such time or times,
41 bear interest at such rate or rates of interest per annum, be in such
42 denomination or denominations, be in such form, either coupon or
43 registered, carry such conversion or registration privileges, have
44 such rank or priority, be executed in such manner, be payable from
45 such sources in such medium of payment at such place or places
46 within or without the State, and be subject to such terms of redemp-
47 tion, with or without premium, as such resolution or resolutions
48 may provide.

49 e. Bonds of the authority may be sold at public or private sale at
50 such price or prices and in such manner as the authority shall
51 determine. Every bond shall mature and be paid not later than 40
52 years from the date thereof.

53 f. Bonds may be issued under the provisions of the act without
54 obtaining the consent of any department, division, commission,
55 board, bureau or agency of the State, and without any other pro-
56 ceeding or the happening of any other conditions or other things
57 than those proceedings, conditions or things which are specifically
58 required by this act.

59 g. Bonds of the authority issued under the provisions of this act
60 shall not be in any way a debt or liability of the State or of any
61 political subdivision thereof other than the authority and shall not
62 create or constitute any indebtedness, liability or obligation of the
63 State or of the political subdivision or be or constitute a pledge
64 of the faith and credit of the State or of the political subdivision
65 but all such bonds, unless funded or refunded by bonds of the au-
66 thority, shall be payable solely from revenues or funds pledged or
67 available for their payment as authorized in the act. Each bond
68 shall contain on its face a statement to the effect that the authority
69 is obligated to pay the principal thereof or the interest thereon only
70 from revenues or funds of the authority and that neither the State
71 nor any political subdivision thereof is obligated to pay the
72 principal or interest and that neither the faith and credit nor the
73 taxing power of the State or any political subdivision thereof is
74 pledged to the payment of the principal of or the interest on the
75 bonds.

76 h. All expenses incurred in carrying out the provisions of the act
77 shall be payable solely from revenues or funds provided or to be
78 provided under the provisions of the act and nothing in this act
79 shall be construed to authorize the authority to incur any indebt-
80 edness or liability on behalf of or payable by the State or any
81 political subdivision thereof.

1 10. In any resolution of the authority empowering or relating to
2 the issuance of any bonds the authority, in order to secure the
3 payment of such bonds and in addition to its other powers, shall
4 have power, by provisions therein which shall constitute covenants
5 by the authority and contracts with the holders of the bonds:

6 a. To pledge all or any part of its rents, fees, tolls, revenues or
7 receipts to which its right then exists or may thereafter come into
8 existence, and the moneys derived therefrom, and the proceeds of
9 any bonds.

10 b. To pledge any lease or other agreement or the rents or other
11 revenues thereunder and the proceeds thereof.

12 c. To mortgage all or any part of its property, real or personal,
13 then owned or thereafter to be acquired.

14 d. To covenant against pledging all or any part of its rents, fees,
15 tolls, revenues or receipts or its leases or agreements or rents or
16 other revenues thereunder or the proceeds thereof, or against
17 mortgaging all or any part of its real or personal property then
18 owned or thereafter acquired, or against permitting or suffering
19 any lien on any of the foregoing.

- 20 e. To covenant with respect to limitations on any right to sell,
21 lease or otherwise dispose of any project or any part thereof or any
22 property of any kind.
- 23 f. To covenant as to any bonds to be issued and the limitations
24 thereon and the terms and conditions thereof and as to the custody,
25 application, investment, and disposition of the proceeds thereof.
- 26 g. To covenant as to the issuance of additional bonds or as to
27 limitations on the issuance of additional bonds and on the incurring
28 of other debts by it.
- 29 h. To covenant as to the payment of the principal of or interest
30 on the bonds, or any other obligations, as to the sources and methods
31 of payment, as to the rank on priority of the bonds with respect
32 to any lien or security or as to the acceleration of the maturity of
33 the bonds.
- 34 i. To provide for the replacement of lost, stolen, destroyed or
35 mutilated bonds.
- 36 j. To covenant against extending the time for the payment of
37 bonds or interest thereon.
- 38 k. To covenant as to the redemption of bonds and privileges of
39 exchange thereof for other bonds of the authority.
- 40 l. To covenant as to the rates of toll and other charges to be
41 established and charged, the amount to be raised each year or other
42 period of time by tolls or other revenues and as to the use and
43 disposition to be made thereof.
- 44 m. To covenant to create or authorize the creation of special
45 funds or moneys to be held in pledge or otherwise for construction,
46 operating expenses, payment or redemption of bonds, reserves or
47 other purposes and as to the use, investment, and disposition of
48 the moneys held in those funds.
- 49 n. To establish the procedure, if any, by which the terms of any
50 contract or covenant with or for the benefit of the holders of bonds
51 may be amended or abrogated, the amount of bonds the holders of
52 which must consent thereto, and the manner in which the consent
53 may be given.
- 54 o. To covenant as to the construction, improvement, or mainte-
55 nance of its real and personal property, the replacement thereof,
56 the insurance to be carried thereon, and the use and disposition of
57 insurance moneys.
- 58 p. To provide for the release of property, leases or other agree-
59 ments, or revenues and receipts from any pledge or mortgage and
60 to reserve rights and powers in, or the right to dispose of, property
61 which is subject to a pledge or mortgage.

62 q. To provide for the rights and liabilities, powers and duties
63 arising upon the breach of any covenant, condition or obligation
64 and to prescribe the events of default and the terms and conditions
65 upon which any or all of the bonds of the authority shall become or
66 may be declared due and payable before maturity and the terms and
67 conditions upon which any such declaration and its consequences
68 may be waived.

69 r. To vest in a trustee or trustees within or without the State
70 such property, rights, powers and duties in trust as the authority
71 may determine, including the right to foreclose any mortgage, and
72 to limit the rights, duties and powers of the trustee.

73 s. To execute all mortgages, bills of sale, conveyances, deeds of
74 trust and other instruments necessary or convenient in the exercise
75 of its powers or in the performance of its covenants or duties.

76 t. To pay the costs or expenses incident to the enforcement of
77 such bonds or of the provisions of the resolution or of any covenant
78 or agreement of the authority with the holders of its bonds; and

79 u. To limit the rights of the holders of any bonds to enforce any
80 pledge or covenant securing bonds.

1 11. Any pledge of revenues, moneys, funds or other property
2 made by the authority shall be valid and binding from the time when
3 the pledge is made. The revenues, moneys, funds or other property
4 so pledged and thereafter received by the authority unless other-
5 wise agreed, shall immediately be subject to the lien of the pledge
6 without any physical delivery thereof or further act, and the lien
7 of the pledge shall be valid and binding as against all parties
8 having claims of any kind in tort, contract or otherwise against the
9 authority, irrespective of whether the parties have notice thereof.
10 Neither the resolution nor any other instrument by which a pledge
11 of revenues, moneys or funds is created need be filed or recorded
12 except in the records of the authority.

1 12. Neither the members of the authority nor any person execut-
2 ing bonds issued pursuant to this act shall be liable personally on
3 the bonds by reason of the issuance thereof.

1 13. The authority may establish such reserves, funds or accounts
2 as may be, in its discretion, necessary or desirable to further the
3 accomplishment of the purposes of the authority or to comply with
4 the provisions of any agreement made by or any resolution of the
5 authority.

1 14. The State of New Jersey pledges to and covenants and agrees
2 with the holders of any bonds issued pursuant to authority of the
3 act that the State will not limit or alter the rights or powers vested
4 in the authority to acquire, construct, maintain, improve, and repair

5 any project in any way that would jeopardize the interest of such
6 holders, or to perform and fulfill the terms of any agreement made
7 with the holders of the bonds, or to fix, establish, charge and collect
8 such rents, fees, rates or other charges as may be convenient or
9 necessary to produce sufficient revenues to meet all expenses of the
10 authority and fulfill the terms of any agreement made with the
11 holders of the bonds, together with interest thereon, with interest on
12 any unpaid installments of interest, and all costs and expenses in
13 connection with any action or proceedings by or on behalf of such
14 holders, until the bonds, together with interest thereon, are fully
15 met and discharged or provided for.

1 15. The State and all public officers, governmental units and
2 agencies thereof, all banks, trust companies, savings banks and
3 institutions, building and loan associations, savings and loan asso-
4 ciations, investment companies, and other persons carrying on a
5 banking business, all insurance companies, insurance associations
6 and other persons carrying on an insurance business, and all
7 executors, administrators, guardians, trustee and other fiduciaries,
8 may legally invest any sinking funds, moneys or other funds belong-
9 ing to them or within their control in any bonds issued pursuant to
10 the act, and such bonds shall be authorized security for any and all
11 public deposits.

1 16. Any governmental entity, notwithstanding any contrary pro-
2 vision of law, except any requiring notice or public hearing, is
3 authorized to lease, lend, grant or convey to the authority at its
4 request upon such terms and conditions as the governing body or
5 other proper utility of such governmental entity may deem reason-
6 able and fair and without the necessity for any advertisement, order
7 of court or other action or formality, other than the ordinance,
8 resolution or regular action thereof, any real property or interest
9 therein which may be necessary or convenient to the effectuation
10 of the purposes of the authority. No property of the State, other
11 than meadowlands, riparian lands or lands underwater and similar
12 lands or interests therein referred to and whose disposition is con-
13 trolled by the provisions in Title 12, Commerce and Navigation,
14 and Title 13, Conservation and Development, of the Revised
15 Statutes, shall be so granted, leased or conveyed to the authority
16 except upon the approval of the State House Commission and pay-
17 ment to the State of such price therefor as may be fixed by the
18 State House Commission.

1 17. Every project, when constructed and placed in operation,
2 shall be properly maintained and kept in good condition and re-
3 paired by the authority. Every project shall be operated by such

4 operating employees as the authority may in its discretion employ
5 or pursuant to a contract or lease with a governmental agency or
6 person.

1 18. Nothing in this act shall be construed to authorize or permit
2 the authority to plan, initiate, acquire, construct, maintain, repair
3 or operate any retail water system or project.

1 19. The authority may establish and alter rates and charges, and
2 collect rents, fees and charges for water sold from, and for the use
3 of services of any water system project and contract in the manner
4 provided in this section with one or more persons, one or more
5 governmental entities, or any combination thereof, receiving the
6 use or services of any project, and fix the terms, conditions, rents,
7 rates, fees and charges for such use or services.

8 The contract may provide for acquisition by such person or
9 governmental agency of all or any part of the project for such con-
10 sideration payable over the period of the contract or otherwise as
11 the authority in its discretion determines to be appropriate, but
12 subject to the provisions of any resolution of the authority au-
13 thorizing the issuance of bonds or any trust agreement securing
14 the same. Any water supply entity which has the power to con-
15 struct, operate and maintain water management facilities may
16 enter into a contract or lease with the authority whereby the use
17 or services of any project of the authority will be made available
18 to the entity and pay for the use or services such rents, rates, fees
19 and charges as may be agreed to by the authority and the entity.

20 Any one or more public or private entity may cooperate with the
21 authority in the acquisition or construction of a project and shall
22 enter into such agreements with the authority as are necessary, with
23 a view to effective cooperative action and safeguarding of the
24 respective interests of the parties thereto, which agreements shall
25 provide for such contributions by the parties thereto in such pro-
26 portion as may be agreed upon and such other terms as may be
27 mutually satisfactory to the parties including without limitation
28 the authorization of the construction of the project by one of the
29 parties acting as agent for all of the parties and the ownership and
30 control of the project by the authority to the extent necessary or
31 appropriate for purposes of the issuance of bonds by the authority.
32 Any governmental agency may provide such contribution as is
33 required under such agreements by the appropriation of money or,
34 if otherwise authorized by law to issue bonds or levy taxes or assess-
35 ments and issue bonds in anticipation of the collection thereof, by
36 the issuance of bonds or by the levying of taxes or assessments and
37 the issuance of bonds in anticipation of the collection thereof, and

38 by the payment of such appropriated money or the proceeds of the
39 bonds to the authority pursuant to such agreements.

1 20. On or before the last day of February in each year the au-
2 thority shall make an annual report of its activities for the preced-
3 ing calendar year to the Governor and to the Legislature. The
4 report shall set forth a complete operating and financial statement
5 covering its operations during the year. The authority shall cause
6 an audit of its books and accounts to be made at least once in each
7 year by certified public accountants and the cost thereof shall be
8 considered an expense of the authority and a copy thereof shall be
9 filed with the Comptroller of the Treasury.

1 21. All officers, departments, boards, agencies, divisions and com-
2 missions of the State are authorized to render such services to the
3 authority as may be within the area of their respective govern-
4 mental functions as fixed by law, and as may be requested by the
5 authority. The cost and expense of the services shall be met and
6 provided for by the authority. The Attorney General shall serve
7 as counsel to the authority.

1 22. The authority is hereby authorized to make and enter into
2 contracts and agreements necessary or incidental to the perfor-
3 mance of its duties and the execution of its powers. No contract on
4 behalf of the authority shall be entered into for the doing of any
5 work, or for the hiring of equipment or vehicles, where the sum to
6 be expended exceeds the sum of \$2,500.00 unless the authority shall
7 first publicly advertise for bids therefor, and shall award the con-
8 tract to the lowest responsible bidder; but advertising shall not be
9 required where the contract to be entered into is one for the furnish-
10 ing or performing services of a professional nature or for the
11 supplying of any product or the rendering of any service by a public
12 utility subject to the jurisdiction of the Board of Public Utilities
13 and tariffs and schedules of the charges, made, charged, or exacted
14 by the public utility for any such products to be supplied or services
15 to be rendered are filed with the board. This section shall not pre-
16 vent the authority from having any work done by its own employees,
17 nor shall it apply to repairs, or to the furnishing of materials,
18 supplies or labor, or the hiring of equipment or vehicles, when the
19 safety or protection of its or other public property or the public
20 convenience require, or the exigency of the authority service will
21 not admit of such advertisement. In such case the authority shall,
22 by resolution, passed by the affirmative vote of a majority of its
23 members, declare the exigency or emergency to exist, and set forth
24 in the resolution the nature thereof and the approximate amount to
25 be expended.

1 23. a. All projects and other property of the authority is
2 declared to be public property devoted to an essential public and
3 governmental function and purpose and shall be exempt from all
4 taxes and special assessments of the State or any political sub-
5 division thereof; provided, however, that when any part of the
6 project site not occupied or to be occupied by facilities of the project
7 is leased by the authority to another whose property is not exempt
8 and the leasing of which does not make the real estate taxable, the
9 estate created by the lease and the appurtenances thereto shall be
10 listed as the property of the lessee thereof and be assessed and
11 taxed as real estate. All bonds issued pursuant to this act are
12 declared to be issued by a body corporate and public of the State
13 and for an essential public and governmental purpose and these
14 bonds, and the interest thereon and the income therefrom, and all
15 funds, revenues, income and other moneys received or to be received
16 by the authority and pledged or available to pay or secure the pay-
17 ment of the bonds, or interest thereon, shall be exempt from taxa-
18 tion except for transfer, inheritance and estate taxes.

19 b. Any project constructed, maintained or operated by the au-
20 thority shall be exempt from compliance with local zoning regula-
21 tions, but the authority shall wherever practicable adhere to the
22 regulations.

1 24. The Water Supply Facilities Element in the Division of
2 Water Resources of the Department of Environmental Protection,
3 together with all its functions, powers and duties, is hereby trans-
4 ferred to the authority established pursuant to this act. This act
5 shall not affect the terms of office of, nor the salaries received by,
6 the present officers or employees of the element.

1 25. The transfer of responsibilities directed by this act shall be
2 made in accordance with the "State Agency Transfer Act," P. L.
3 1971, c. 375 (C. 52:14D-1 et seq.).

1 26. This act shall take effect immediately.

SENATE, No. 1612

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT creating a State Water Supply Utility empowered to acquire, finance, construct and operate water systems under certain circumstances upon the directive of the Department of Environmental Protection, authorizing the issuance of bonds of the utility, providing for the terms and security thereof, and making an appropriation therefor.

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

1 1. This act shall be known as and may be cited as the "State
2 Water Supply Utility Act."

1 2. The Legislature finds that a State utility should be established
2 to acquire, finance, construct and operate water systems pursuant
3 to the provisions of this act.

1 3. As used in this act:

2 a. "Utility" means the State Water Supply Utility created by
3 this act.

4 b. "Bonds" means bonds, notes, or other obligations issued or
5 authorized pursuant to this act.

6 c. "Compensating reservoir" means the structures, facilities
7 and appurtenances for the impounding, transportation and release
8 of water for the replenishment in periods of drought or at other
9 necessary times of all or a part of waters in or bordering the State
10 diverted into a project.

11 d. "Cost" as applied to a project means the cost of acquisition
12 and construction thereof, the cost of acquisition of lands, rights-
13 of-way, property rights, easements, and interests required by the
14 utility for acquisition and construction, the cost of demolishing or
15 removing any buildings or structures on land so acquired, including
16 the cost of acquiring any lands to which buildings or structures
17 may be moved, the cost of acquiring or constructing and equipping
18 an office of the utility, the cost of machinery, furnishings, and
19 equipment, financing expenses, reserves, interest prior to and dur-

20 ing construction and for no more than 6 months after completion
21 of construction, engineering, expenses of research and development
22 with respect to any project, legal expenses, plans, specifications,
23 surveys, estimates of cost and revenues, working capital, other
24 expenses necessary or incident to determining the feasibility or
25 practicability of acquiring or constructing a project, administra-
26 tive expense, and such other expense as may be necessary or inci-
27 dent to the acquisition or construction of the project.

28 e. "Construct" and "construction" means and includes acts of
29 construction, reconstruction, replacement, extension, improvement
30 and betterment of a project.

31 f. "Department" means the Department of Environmental Pro-
32 tection.

33 g. "Governmental agency" means any municipality, county, or
34 any agency thereof, the State Government and any instrumentality
35 or subdivision thereof.

36 h. "Person" means and includes corporations, companies, associ-
37 ations, societies, firms, partnerships, and joint stock companies,
38 as well as individuals, and political subdivisions of this State or
39 any agencies or instrumentalities thereof.

40 i. "Project" means a water system or any part thereof.

41 j. "Real property" means lands both within or without the State,
42 and improvements thereof or thereon, or any rights or interests
43 therein.

44 k. "Revenue" means all rents, fees and charges for water sold
45 from, or for the use and services of any project of the utility and
46 payments in respect of any loans or advances made to governmental
47 agencies pursuant to this act.

48 l. "Service charges" means water service charges established
49 or collected by the utility pursuant to this act.

50 m. "Water system" means the plants, structures and other real
51 and personal property financed, acquired, constructed or operated
52 or to be financed, acquired, constructed or operated by the utility
53 under this act or additions and improvements thereto, including
54 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
55 pipelines, mains, pumping stations, water distribution systems,
56 compensating reservoirs, waterworks or sources of water supply,
57 wells, purification of filtration plants or other plants, equipment
58 and works, connections, rights of flowage or diversion, and other
59 plants, structures, boats, conveyances, and other real and personal
60 property and rights therein, and appurtenances necessary or use-
61 ful and convenient for the accumulation, supply, treatment or
62 distribution of water.

1 4. a. There is established in but not of the Department of
2 Environmental Protection a public body corporate and politic, with
3 corporate succession, to be known as the "State Water Supply
4 Utility." The utility is constituted as an instrumentality of the
5 State exercising public and essential governmental functions.

6 b. The utility shall consist of the Commissioner of Environmental
7 Protection, the State Treasurer, and the Commissioner of Labor
8 and Industry who shall be members ex officio, with full voting
9 power, and two members appointed by the Governor to represent
10 the public with the advice and consent of the Senate for terms of
11 2 years, provided that the members of the utility, other than the
12 ex officio members, first appointed by the Governor shall serve
13 for terms of 1 year and 2 years, respectively. Each member shall
14 hold office for the term of his appointment and until his successor
15 shall have been appointed and qualified. A member shall be
16 eligible for reappointment. Any vacancy in the membership oc-
17 curring other than by expiration of term shall be filled in the
18 same manner as the original appointment but for the unexpired
19 term only.

20 c. Each appointed member may be removed from office by the
21 Governor, for cause, after a public hearing, and may be suspended
22 by the Governor pending the completion of the hearing. Each
23 member before entering upon his duties shall take and subscribe
24 an oath to perform the duties of his office faithfully, impartially
25 and justly to the best of his ability. A record of these oaths shall
26 be filed in the office of the Secretary of State.

27 d. The chairman, who shall be chief executive officer of the
28 utility shall be the Commissioner of Environmental Protection, and
29 the members of the utility shall elect one of their number as vice
30 chairman thereof. The utility shall elect a secretary and a treasurer,
31 and the same person may be elected to serve both as secretary and
32 treasurer. The powers of the utility shall be vested in the members
33 thereof in office from time to time and four members of the utility
34 shall constitute a quorum at any meeting thereof. Action may be
35 taken and motions and resolutions adopted by the utility at any
36 meeting thereof by the affirmative vote of at least four members
37 of the utility one of which shall be the vote of the Commissioner of
38 Environmental Protection. No vacancy in the membership of the
39 utility shall impair the right of a quorum of the members to
40 exercise all the powers and perform all the duties of the utility.

41 e. Each member and the treasurer of the utility shall execute
42 a bond to be conditioned upon the faithful performance of the
43 duties of the member or treasurer, as the case may be, in such form

44 and amount as may be prescribed by the Comptroller of the
45 Treasury. The bonds shall be filed in the office of the Secretary
46 of State. At all times thereafter the members and treasurer of the
47 utility shall maintain these bonds in full force. The costs of the
48 bonds shall be borne by the utility.

49 f. The members of the utility shall serve without compensation,
50 but the utility shall reimburse its members for actual expenses
51 necessarily incurred in the discharge of their duties. No officer
52 or employee of the State shall be deemed to have forfeited or shall
53 forfeit his office or employment or any benefits or emoluments
54 thereof by reason of his acceptance of the office of ex officio member
55 of the utility.

56 g. Each ex officio member of the utility may designate an officer
57 or employee of his department to represent him at meetings of
58 the utility, and each designee may lawfully vote and otherwise act
59 on behalf of the member for whom he constitutes the designee. The
60 designation shall be in writing delivered to the utility and shall
61 continue in effect until revoked or amended by writing delivered
62 to the utility.

63 h. The utility may be dissolved by act of the Legislature on
64 condition that the utility has no debts or obligations outstanding
65 or that provision has been made for the payment or retirement of
66 debts or obligations. Upon a dissolution of the utility all property,
67 funds and assets thereof shall be vested in the State.

1 5. a. If the department has issued an order to a water supply
2 entity to construct or upgrade a water system and the recipient of
3 the order has not taken the action required by the order within
4 the time specified, the department may hold a public hearing in
5 the area affected to elicit testimony as to the proper future course
6 of action.

7 b. After a hearing has been held, the department shall review
8 the testimony presented and other relevant materials. Thereafter,
9 the department may extend the period of compliance with its order,
10 seek such relief as may be afforded by any statute, or issue a direc-
11 tive to the utility to undertake the necessary action required by
12 the order and such other additional action as may be required to
13 effectuate the purposes of the order. The utility shall proceed
14 in accordance with directive through the exercise of the powers
15 granted by this act.

1 6. a. The utility is authorized upon and only in accordance with
2 a and approval of the department to plan, initiate, acquire, con-
3 struct, maintain, repair and operate projects or cause the same to
4 be operated pursuant to a lease, sublease, or agreement with any

5 person or governmental agency, and to issue bonds of the utility
6 to finance these projects, payable from the revenues and other
7 funds of the utility.

8 b. The utility shall be subject to compliance with all State health
9 and environmental protection statutes and regulations and any
10 other statutes and regulations not inconsistent herewith.

11 c. The utility may, upon the request of a governmental agency,
12 enter into a contract to provide services for any project. The
13 contract shall be subject to the review and approval of the depart-
14 ment.

1 7. All water supply facilities, owned or operated by the State,
2 either now or hereafter, are transferred to the utility for purposes
3 of operation. The utility shall operate these facilities pursuant to
4 the statutory authorizations enabling the State to operate and
5 manage the facilities. The Delaware and Raritan Canal Transmis-
6 sion Complex, the Spruce Run-Round Valley Reservoir Complex
7 and all other facilities now or hereafter authorized to be designed,
8 constructed and operated pursuant to any past or future bond
9 issue are specifically included as State water supply facilities.

1 8. Except as otherwise limited by the act, the utility shall have
2 power:

3 a. To sue and be sued.

4 b. To have an official seal and alter the same at pleasure.

5 c. To make and alter bylaws for its organization and internal
6 management and for the conduct of its affairs and business.

7 d. To maintain an office at such place or places within the State
8 as it may determine.

9 e. To acquire, lease as lessee or lessor, rent, hold, use and dis-
10 pose of real or personal property for its purposes.

11 f. To borrow money and to issue its negotiable bonds and to
12 secure the same by a mortgage on its property or any part thereof
13 and otherwise to provide for and secure the payment thereof and to
14 provide for the rights of the holders thereof.

15 g. To fix and revise from time to time and charge and collect
16 rents, fees and charges for any of the services rendered by the
17 authority, which shall be equitably assessed.

18 h. To procure insurance against any losses in connection with
19 its property, operations or assets in such amounts and from such
20 insurers as it deems desirable.

21 i. Subject to any agreement with bondholders and the approval
22 of the department to invest moneys of the utility not required for
23 immediate use, including proceeds from the sale of any bonds, in
24 such obligations, securities and other investments as the utility
25 shall deem prudent.

26 j. To appoint and employ an executive director and such addi-
27 tional officers who need not be members of the utility and account-
28 ants, financial advisors or experts and such other or different offi-
29 cers, agents and employees as it may require and determine their
30 qualifications, terms of office, duties and compensation, all without
31 regard to the provisions of Title 11, Civil Service, of the Revised
32 Statutes.

33 k. To contract for and to accept any gifts or grants or loans of
34 funds or property or financial or other aid in any form from the
35 United States of America or any agency or instrumentality thereof,
36 or from the State or any agency, instrumentality or political sub-
37 division thereof, or from any other source and to comply, subject
38 to the provisions of this act, with the terms and conditions thereof.

39 l. Subject to the approval of the department, to acquire, hold,
40 rent, lease, use and dispose of real or personal property in the
41 exercise of its powers and the performance of its duties under
42 this act.

43 m. To acquire, subject to the provisions of any other statute and
44 the approval of the department, in the name of the utility by
45 purchase or otherwise, on such terms and conditions and in such
46 manner as it may deem proper, except with respect to property
47 owned by the State, by the exercise of the power of eminent domain,
48 any land and other property, which it may determine is reasonably
49 necessary for any of its projects and any and all rights, title and
50 interest in that land and other property, including, providing there
51 is no prudent and feasible alternative, public lands, reservations,
52 highways or parkways, owned by or in which the State or any
53 county, municipality, public corporation, or other political sub-
54 division of the State has any right, title or interest, or parts thereof
55 or rights therein and any fee simple absolute or any lesser interest
56 in private property, and any fee simple absolute in, easements upon
57 or the benefit of restrictions upon, abutting property to preserve
58 and protect the project.

59 n. To do and perform any acts and things authorized by the act
60 under, through, or by means of its officers, agents or employees or
61 by contracts with any person.

62 o. To establish and enforce rules and regulations for the use and
63 operation of its projects and the conduct of its activities, and
64 provide for the policing and the security of its projects.

65 p. To do any and all things necessary or convenient to carry out
66 its purposes in accordance with the powers given and granted in
67 the act.

1 9. Upon the exercise of the power of eminent domain, the com-
2 pensation to be paid thereunder shall be ascertained and paid in the
3 manner provided in P. L. 1971, c. 361 (C. 20:3-1 et seq.).

1 10. a. The utility authorized from time to time to issue its bonds
2 in such principal amounts as in the opinion of the utility shall be
3 necessary to provide sufficient funds for any of its corporate pur-
4 poses, including the payment, funding or refunding of the principal
5 of, or interest or redemption premiums on, any bonds issued by it
6 whether the bonds or interest to be funded or refunded have or have
7 not become due the establishment or increase of such reserves to
8 secure or to pay such bonds or interest thereon and all other costs
9 or expenses of the agency incident to and necessary to carry out its
10 corporate purposes and powers.

11 b. Except as may be otherwise expressly provided in the act or
12 by the utility, every issue of bonds shall be general obligations
13 payable out of and secured by any revenues or funds of the utility,
14 subject only to any agreements with holders of particular bonds
15 pledging any particular revenues or funds. The utility may issue
16 such types of bonds as it may determine, including, without limiting
17 the generality of the foregoing bonds as to which the principal
18 and interest are payable (1) exclusively from the revenues and
19 funds derived from or relating to the project or part thereof
20 financed with the proceeds of the bonds; (2) exclusively from
21 the revenues and funds derived from or relating to certain desig-
22 nated projects or parts thereof, whether or not the same are
23 financed in whole or in part from the proceeds of bonds; (3)
24 exclusively from certain designated funds of the utility; or (4)
25 from the revenues and funds of the utility generally. The bonds
26 may be additionally secured by a pledge of any grant, subsidy
27 or contribution from the United States of America or any agency
28 or instrumentality thereof or the State of New Jersey or any
29 agency, instrumentality or political subdivision thereof, or any
30 person, or a pledge of any income or revenues, funds or moneys
31 of the authority from any source whatsoever.

32 c. Whether or not the bonds are of such form and character as
33 to be negotiable instruments under the terms of Title 12A, Com-
34 mercial Transactions, New Jersey Statutes, the bonds are hereby
35 made negotiable instruments within the meaning of and for all the
36 purposes of said Title 12A, subject only to the provisions of the
37 bonds for registration.

38 d. Bonds of the utility shall be authorized by a resolution or
39 resolutions of the utility and may be issued in one or more series
40 and shall bear such date, or dates, mature at such time or times,

41 bear interest at such rate or rates of interest per annum, be in such
42 denomination or denominations, be in such form, either coupon or
43 registered, carry such conversion or registration privileges, have
44 such rank or priority, be executed in such manner, be payable from
45 such sources in such medium of payment at such place or places
46 within or without the State, and be subject to such terms of redemp-
47 tion, with or without premium, as such resolution or resolutions
48 may provide.

49 e. Bonds of the utility may be sold at public or private sale
50 at such price or prices and in such manner as the authority shall
51 determine. Every bond shall mature and be paid not later than 40
52 years from the date thereof.

53 f. Bonds may be issued under the provisions of the act without
54 obtaining the consent of any department, division, commission,
55 board, bureau or agency of the State, and without any other pro-
56 ceeding or the happening of any other conditions or other things
57 than those proceedings, conditions or things which are specifically
58 required by this act.

59 g. Bonds of the utility issued under the provisions of this act
60 shall not be in any way a debt or liability of the State or of any
61 political subdivision thereof other than the utility and shall not
62 create or constitute any indebtedness, liability or obligation of the
63 State or of the political subdivision or be or constitute a pledge
64 of the faith and credit of the State or of the political subdivision
65 but all such bonds, unless funded or refunded by bonds of the utility,
66 shall be payable solely from revenues or funds pledged or available
67 for their payment as authorized in the act. Each bond shall contain
68 on its face a statement to the effect that the utility is obligated to
69 pay the principal thereof or the interest thereon only from revenues
70 or funds of the utility and that neither the State nor any political
71 subdivision thereof is obligated to pay the principal or interest and
72 that neither the faith and credit nor the taxing power of the State
73 or any political subdivision thereof is pledged to the payment of the
74 principal of or the interest on the bonds.

75 h. All expenses incurred in carrying out the provisions of the act
76 shall be payable solely from revenues or funds provided or to be
77 provided under the provisions of the act and nothing in this act shall
78 be construed to authorize the utility to incur any indebtedness or
79 liability on behalf of or payable by the State or any political sub-
80 division thereof.

1 11. In any resolution of the utility authorizing or relating to
2 the issuance of any bonds the utility, in order to secure the pay-
3 ment of such bonds and in addition to its other powers, shall have

4 power, by provisions therein which shall constitute covenants by the
5 utility and contracts with the holders of the bonds:

6 a. To pledge all or any part of its rents, fees, tolls, revenues or
7 receipts to which its right then exists or may thereafter come into
8 existence, and the moneys derived therefrom, and the proceeds of
9 any bonds.

10 b. To pledge any lease or other agreement or the rents or other
11 revenues thereunder and the proceeds thereof.

12 c. To mortgage all or any part of its property, real or personal,
13 then owned or thereafter to be acquired.

14 d. To covenant against pledging all or any part of its rents, fees,
15 tolls, revenues or receipts or its leases or agreements or rents or
16 other revenues thereunder or the proceeds thereof, or against
17 mortgaging all or any part of its real or personal property then
18 owned or thereafter acquired, or against permitting or suffering
19 any lien on any of the foregoing.

20 e. To covenant with respect to limitations on any right to sell,
21 lease or otherwise dispose of any project or any part thereof or any
22 property of any kind.

23 f. To covenant as to any bonds to be issued and the limitations
24 thereon and the terms and conditions thereof and as to the custody,
25 application, investment, and disposition of the proceeds thereof.

26 g. To covenant as to the issuance of additional bonds or as to
27 limitations on the issuance of additional bonds and on the incurring
28 of other debts by it.

29 h. To covenant as to the payment of the principal of or interest
30 on the bonds, or any other obligations, as to the sources and meth-
31 ods of payment, as to the rank on priority of the bonds with respect
32 to any lien or security or as to the acceleration of the maturity of
33 the bonds.

34 i. To provide for the replacement of lost, stolen, destroyed or
35 mutilated bonds.

36 j. To covenant against extending the time for the payment of
37 bonds or interest thereon.

38 k. To covenant as to the redemption of bonds and privileges of
39 exchange thereof for other bonds of the utility.

40 l. To covenant as to the rates of toll and other charges to be
41 established and charged, the amount to be raised each year or other
42 period of time by tolls or other revenues and as to the use and
43 disposition to be made thereof.

44 m. To covenant to create or authorize the creation of special
45 funds or moneys to be held in pledge or otherwise for construction,
46 operating expenses, payment or redemption of bonds, reserves or

47 other purposes and as to the use, investment, and disposition of
48 the moneys held in those funds.

49 n. To establish the procedure, if any, by which the terms of any
50 contract or covenant with or for the benefit of the holders of bonds
51 may be amended or abrogated, the amount of bonds the holders of
52 which must consent thereto, and the manner in which the consent
53 may be given.

54 o. To covenant as to the construction, improvement, or mainte-
55 nance of its real and personal property, the replacement thereof,
56 the insurance to be carried thereon, and the use and disposition of
57 insurance moneys.

58 p. To provide for the release of property, leases or other agree-
59 ments, or revenues and receipts from any pledge or mortgage and
60 to reserve rights and powers in, or the right to dispose of, property
61 which is subject to a pledge or mortgage.

62 q. To provide for the rights and liabilities, powers and duties
63 arising upon the breach of any covenant, condition or obligation
64 and to prescribe the events of default and the terms and conditions
65 upon which any or all of the bonds of the utility shall become or
66 may be declared due and payable before maturity and the terms and
67 conditions upon which any such declaration and its consequences
68 may be waived.

69 r. To vest in a trustee or trustees within or without the State
70 such property, rights, powers and duties in trust as the utility may
71 determine, including the right to foreclose any mortgage, and to
72 limit the rights, duties and powers of the trustee.

73 s. To execute all mortgages, bills of sale, conveyances, deeds of
74 trust and other instruments necessary or convenient in the exercise
75 of its powers or in the performance of its covenants or duties.

76 t. To pay the costs or expenses incident to the enforcement of
77 such bonds or of the provisions of the resolution or of any covenant
78 or agreement of the utility with the holders of its bonds; and

79 u. To limit the rights of the holders of any bonds to enforce any
80 pledge or covenant securing bonds.

1 12. Any pledge of revenues, moneys, funds or other property
2 made by the utility shall be valid and binding from the time when
3 the pledge is made. The revenues, moneys, funds or other property
4 so pledged and thereafter received by the utility, unless other-
5 wise agreed, shall immediately be subject to the lien of the pledge
6 without any physical delivery thereof or further act, and the lien
7 of the pledge shall be valid and binding as against all parties
8 having claims of any kind in tort, contract or otherwise against the
9 utility, irrespective of whether the parties have notice thereof.

10 Neither the resolution nor any other instrument by which a pledge
11 of revenues, moneys or funds is created need be filed or recorded
12 except in the records of the authority and of the department.

1 13. Neither the members of the utility nor any person executing
2 bonds issued pursuant to this act shall be liable personally on
3 the bonds by reason of the issuance thereof.

1 14. The utility may establish such reserves, funds or accounts
2 as may be, in its discretion, necessary or desirable to further the
3 accomplishment of the purposes of the utility or to comply with
4 the provisions of any agreement made by or any resolution of the
5 utility.

1 15. The State of New Jersey pledges to and covenants and agrees
2 with the holders of any bonds issued pursuant to authority of the
3 act that the State will not limit or alter the rights or powers vested
4 in the utility to acquire, construct, maintain, improve, and repair
5 any project in any way that would jeopardize the interest of such
6 holders, or to perform and fulfill the terms of any agreement made
7 with the holders of the bonds, or to fix, establish, charge and collect
8 such rents, fees, rates or other charges as may be convenient or
9 necessary to produce sufficient revenues to meet all expenses of the
10 utility and fulfill the terms of any agreement made with the holders
11 of the bonds, together with interest thereon, with interest on any
12 unpaid installments of interest, and all costs and expenses in con-
13 nection with any action or proceedings by or on behalf of such
14 holders, until the bonds, together with interest thereon, are fully
15 met and discharged or provided for.

1 16. The State and all public officers, governmental units and
2 agencies thereof, all banks, trust companies, savings banks and
3 institutions, building and loan associations, savings and loan asso-
4 ciations, investment companies, and other persons carrying on a
5 banking business, all insurance companies, insurance associations
6 and other persons carrying on an insurance business, and all
7 executors, administrators, guardians, trustee and other fiduciaries,
8 may legally invest any sinking funds, moneys or other funds belong-
9 ing to them or within their control in any bonds issued pursuant to
10 the act, and such bonds shall be authorized security for any and all
11 public deposits.

1 17. Any governmental entity, notwithstanding any contrary pro-
2 vision of law, except any requiring notice or public hearing, and
3 subject to the approval of the department, is authorized to lease,
4 lend, grant or convey to the utility at its request upon such terms
5 and conditions as the governing body or other proper utility of such
6 governmental entity may deem reasonable and fair and without the

7 necessity for any advertisement, order of court or other action or
8 formality, other than the ordinance, resolution or regular action
9 thereof, any real property or interest therein which may be
10 necessary or convenient to the effectuation of the purposes of the
11 utility. No property of the State, other than meadowlands, riparian
12 lands or lands underwater and similar lands or interests therein re-
13 ferred to and whose disposition is controlled by the provisions in
14 Title 12, Commerce and Navigation, and Title 13, Conservation and
15 Development, of the Revised Statutes, shall be so granted, leased or
16 conveyed to the authority except upon the approval of the State
17 House Commission and the department and payment to the State of
18 such price therefor as may be fixed by the State House Commission.

1 18. Every project, when constructed and placed in operation,
2 shall be maintained and kept in good condition and repaired by the
3 utility and shall be subject to all orders and applicable acts, rules
4 and regulations of the department. Every project shall be operated
5 by such operating employees as the utility may in its discretion
6 employ or pursuant to a contract or lease with a governmental
7 agency or person.

1 19. The utility may establish and alter rates and charges, and
2 collect rents, fees and charges for water sold from, and for the use
3 of services of any water system project and contract in the manner
4 provided in this section with one or more persons, one or more
5 governmental entities, or any combination thereof, receiving the
6 use or services of any project, and fix the terms, conditions, rents,
7 rates, fees and charges for such use or services. These rents, rates,
8 fees and charges shall be subject to supervision and regulation by
9 the Board of Public Utilities. The contract may provide for acquisi-
10 tion by such person or governmental agency of all or any part of the
11 project for such consideration payable over the period of the
12 contract or otherwise as the utility in its discretion determines to
13 be appropriate, but subject to the provisions of any resolution of
14 the utility authorizing the issuance of bonds or any trust agreement
15 securing the same. Any water supply entity which has the power to
16 construct, operate and maintain water management facilities may
17 enter into a contract or lease with the utility, subject to the approval
18 of the department, whereby the use or services of any project of the
19 utility will be made available to the entity and pay for the use or
20 services such rents, rates, fees and charges as may be agreed to by
21 the utility and the entity.

22 Any one or more public or private may cooperate with the utility
23 in the acquisition or construction of a project and shall enter into
24 such agreements with the utility as are necessary, with a view to

25 effective cooperative action and safeguarding of the respective
26 interests of the parties thereto, which agreements shall provide for
27 such contributions by the parties thereto in such proportion as may
28 be agreed upon and such other terms as may be mutually satis-
29 factory to the parties including without limitation the authorization
30 of the construction of the project by one of the parties acting as
31 agent for all of the parties and the ownership and control of the
32 project by the utility to the extent necessary or appropriate for
33 purposes of the issuance of bonds by the utility. Any governmental
34 agency may provide such contribution as is required under such
35 agreements by the appropriation of money or, if otherwise au-
36 thorized by law to issue bonds or levy taxes or assessments and
37 issue bonds in anticipation of the collection thereof, by the issuance
38 of bonds or by the levying of taxes or assessments and the issuance
39 of bonds in anticipation of the collection thereof, and by the pay-
40 ment of such appropriated money or the proceeds of the bonds to
41 the utility pursuant to such agreements.

1 20. On or before the last day of February in each year the utility
2 shall make an annual report of its activities for the preceding
3 calendar year to the Governor and to the Legislature. The report
4 shall set forth a complete operating and financial statement cover-
5 ing its operations during the year. The utility shall cause an audit
6 of its books and accounts to be made at least once in each year by
7 certified public accountants and the cost thereof shall be considered
8 an expense of the authority and a copy thereof shall be filed with the
9 Comptroller of the Treasury.

1 21. All officers, departments, boards, agencies, divisions and com-
2 missions of the State are authorized to render such services to the
3 utility as may be within the area of their respective governmental
4 functions as fixed by law, and as may be requested by the utility.
5 The cost and expense of the services shall be met and provided for
6 by the utility. The Attorney General shall serve as counsel to the
7 utility.

1 22. The utility is authorized to make and enter into contracts and
2 agreements necessary or incidental to the performance of its duties
3 and the execution of its powers. No contract on behalf of the utility
4 shall be entered into for the doing of any work, or for the hiring of
5 equipment or vehicles, where the sum to be expended exceeds the
6 sum of \$2,500.00 unless the utility shall first publicly advertise for
7 bids therefor, and shall award the contract to the lowest responsible
8 bidder; but advertising shall not be required where the contract to
9 be entered into is one for the furnishing or performing services of a
10 professional nature or for the supplying of any product or the
11 rendering of any service by a public utility subject to the jurisdic-

12 tion of the Public Utilities Commission and tariffs and schedules of
 13 the charges, made, charged, or exacted by the public utility for any
 14 such products to be supplied or services to be rendered are filed
 15 with the commission. This section shall not prevent the utility from
 16 having any work done by its own employees, nor shall it apply to
 17 repairs, or to the furnishing of materials, supplies or labor, or the
 18 hiring of equipment or vehicles, when the safety or protection of its
 19 or other public property or the public convenience require, or the
 20 exigency of the utility service will not admit of such advertisement.
 21 In such case the utility shall, by resolution, passed by the affirma-
 22 tive vote of a majority of its members, declare the exigency or
 23 emergency to exist, and set forth in the resolution the nature
 24 thereof and the approximate amount to be expended.

1 23. a. All projects and other property of the utility is declared
 2 to be public property devoted to an essential public and govern-
 3 mental function and purpose and shall be exempt from all taxes
 4 and special assessments of the State or any political subdivision
 5 thereof; provided, however, that when any part of the project site
 6 not occupied or to be occupied by facilities of the project is leased
 7 by the utility to another whose property is not exempt and the
 8 leasing of which does not make the real estate taxable, the estate
 9 created by the lease and the appurtenances thereto shall be listed
 10 as the property of the lessee thereof and be assessed and taxed as
 11 real estate. All bonds issued pursuant to this act are declared to be
 12 issued by a body corporate and public of the State and for an
 13 essential public and governmental purpose and these bonds, and the
 14 interest thereon and the income therefrom, and all funds, revenues,
 15 income and other moneys received or to be received by the utility
 16 and pledged or available to pay or secure the payment of the bonds,
 17 or interest thereon, shall be exempt from taxation except for
 18 transfer, inheritance and estate taxes.

19 b. Any project constructed, maintained or operated by the utility
 20 shall be exempt from compliance with local zoning regulations, but
 21 the utility shall wherever practicable adhere to the regulations.

1 24. There is appropriated to the utility from the General State
 2 Fund the sum of \$100,000.00, or so much thereof as may be neces-
 3 sary, for the purposes of carrying out its function and duties pur-
 4 suant to this act. This appropriation shall be repaid to the General
 5 State Fund as soon as practicable out of the proceeds of the first
 6 bonds issued by the authority or other available funds.

1 25. This act shall take effect immediately.

STATEMENT

This "State Water Supply Utility Act" establishes a State Utility empowered to plan, finance, acquire, construct, and operate water systems where the responsible public or private entity has failed to take action required by orders issued by the Department of Environmental Protection or where the Legislature has authorized any construction and operation of any water supply facility. The Delaware and Raritan Canal Transmission Complex, the Spruce Run-Round Valley Reservoir Complex and any water supply project authorized by any past or future bond issue shall be operated by this utility.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1612

STATE OF NEW JERSEY

DATED: JUNE 15, 1981

This bill would establish the "New Jersey Water Supply Authority" in but not of the Department of Environmental Protection as a public body corporate and politic, with corporate succession, empowered to acquire, finance, construct and operate water systems, including all water supply facilities, owned or operated by the State, either now or hereafter, and all other State-operated facilities now or hereafter authorized to be designed, constructed and operated pursuant to any past or future bond issues, including the "Water Supply Bond Act of 1981."

The authority would consist of the Commissioner of Environmental Protection and six public members appointed by the Governor with the advice and consent of the Senate.

The major provisions of the bill would: (1) prohibit the authority from engaging in the retail sale of water; (2) authorize the authority to issue revenue bonds, subject to the written approval of the Governor and the State Treasurer, to fund projects or improvements for which the authority would be fully reimbursed from the wholesale sale of water; (3) pledge the revenues from all State water supply facilities not otherwise provided for by law to the authority; and (4) authorize the authority to establish and alter rates and charges for the services and water it provides to the various water purveyors in the State.

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

OCTOBER 7, 1981

DAVE DE MAIO

Governor Brendan Byrne, at a public ceremony in his outer office, today signed a bill establishing a State Water Supply Authority.

The bill, S-1612, sponsored by Senator Frank "Pat" Dodd (D-Essex), allows the Authority to issue bonds for the purpose of acquiring, financing, constructing and operating water systems throughout the State.

The Authority will have an independent financing structure, with the State not liable for Authority bonds. The Governor and State Treasurer, or Comptroller of the Treasury, however, must approve all bond issues in advance. In addition, all Authority projects must conform to the standards recommended by the New Jersey Water Supply Master Plan. The Governor will also have the power to veto all actions of the New Jersey Water Supply Authority if he exercises his veto power within ten days of the Authority's action.

The Water Supply Authority will consist of seven members: six public members appointed by the Governor with the advice and consent of the Senate, and, serving as the Authority's Chairman and chief executive officer, the Commissioner of the Department of Environmental Protection (DEP).

All past or future State-owned or operated water supply facilities, along with the revenue derived from those facilities, will be transferred to the Authority, including the Delaware-Raritan Canal transmission complex and the Spruce Run-Round Valley reservoir complex.

Construction, operation and regulatory functions of State-owned or operated water supply facilities are currently administered by DEP.

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