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LAW/RWH

P.L.2013, CHAPTER 190, *approved January 17, 2014*
Assembly, No. 4232 (*Second Reprint*)

1 AN ACT concerning the powers of certain local authorities ¹**[and]** ¹
2 amending ¹and supplementing¹ P.L.1957, c.183.
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

7 ¹1. (New section) The Legislature finds and declares that:
8 Infrastructure maintenance and repair are vital to the economy
9 and quality of life in the State of New Jersey.

10 Infrastructure maintenance and repair continue to be
11 insufficiently funded throughout the State.

12 Property taxes in this State continue to be a serious burden to
13 local property taxpayers and so cannot be relied upon to fund
14 necessary infrastructure maintenance and repairs.

15 It is in the public interest to develop additional funding sources
16 to provide for necessary maintenance and repair of infrastructure
17 within the State.

18 County utilities authorities with surplus funds offer one such
19 additional funding source and a pilot program should be developed
20 to explore the efficacy of using those surplus funds for these
21 infrastructure purposes.¹
22

23 ¹2. (New section) a. There is established a pilot program to
24 evaluate the efficiency and functionality of allowing county utilities
25 authorities in certain counties, through the use of their undesignated
26 fund balance or unreserved retained earnings, to fund improvements
27 to county infrastructure in municipalities that are located in those
28 counties and that are served by those county utilities authorities, as
29 another method to repair or replace aging county infrastructure
30 through a means other than the local property tax.

31 b. Under this pilot program created herein, the participating
32 county utilities authorities shall be those created by the pilot
33 counties.

34 c. ²**[The]** Upon application to and approval by the Director of
35 Local Government Services in the Department of Community

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:

¹Senate SBA committee amendments adopted June 24, 2013.

²Assembly amendments adopted in accordance with Governor's recommendations September 9, 2013.

1 Affairs, the² pilot county utilities authorities shall be permitted to
2 fund improvements within the counties, and each shall report to the
3 ²[[Legislature] Director of Local Government Services² annually on
4 the county projects that have been funded by the county utilities
5 authorities.¹

6
7 ¹[[1.] 3.¹ Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended
8 to read as follows:

9 3. As used in this act, unless a different meaning clearly
10 appears from the context:

11 (1) "Municipality" shall mean any city of any class, any
12 borough, village, town, township, or any other municipality other
13 than a county or a school district, and except when used in section
14 4, 5, 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any
15 two or more thereof acting jointly or any joint meeting or other
16 agency of any two or more thereof;

17 (2) "County" shall mean any county of any class;

18 (3) "Governing body" shall mean, in the case of a county, the
19 board of chosen freeholders, or in the case of those counties
20 organized pursuant to the provisions of the "Optional County
21 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of
22 chosen freeholders and the county executive, the county supervisor
23 or the county manager, as appropriate, and, in the case of a
24 municipality, the commission, council, board or body, by whatever
25 name it may be known, having charge of the finances of the
26 municipality;

27 (4) "Person" shall mean any person, association, corporation,
28 nation, state or any agency or subdivision thereof, other than a
29 county or municipality of the State or a municipal authority;

30 (5) "Municipal authority," "authority," or "water reclamation
31 authority" shall mean a public body created or organized pursuant
32 to section 4, 5 or 6 of this act and shall include a municipal utilities
33 authority created by one or more municipalities and a county
34 utilities authority created by a county;

35 (6) Subject to the exceptions provided in section 10, 11 or 12 of
36 this act, "district" shall mean the area within the territorial
37 boundaries of the county, or of the municipality or municipalities,
38 which created or joined in or caused the creation or organization of
39 a municipal authority;

40 (7) "Local unit" shall mean the county, or any municipality,
41 which created or joined in or caused the creation or organization of
42 a municipal authority;

43 (8) "Water system" shall mean the plants, structures and other
44 real and personal property acquired, constructed or operated or to be
45 acquired, constructed or operated by a municipal authority or by
46 any person to whom a municipal authority has extended credit for
47 this purpose for the purposes of the municipal authority, including
48 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,

1 pipelines, mains, pumping stations, water distribution systems,
2 compensating reservoirs, waterworks or sources of water supply,
3 wells, purification or filtration plants or other plants and works,
4 connections, rights of flowage or division, and other plants,
5 structures, boats, conveyances, and other real and personal property,
6 and rights therein, and appurtenances necessary or useful and
7 convenient for the accumulation, supply and redistribution of water;

8 (9) "Sewerage system" shall mean the plants, structures, on-site
9 wastewater systems and other real and personal property acquired,
10 constructed or operated or to be acquired, constructed, maintained
11 or operated by a municipal authority or by any person to whom a
12 municipal authority has extended credit for this purpose for the
13 purposes of the municipal authority, including sewers, conduits,
14 pipelines, mains, pumping and ventilating stations, sewage
15 treatment or disposal systems, plants and works, connections,
16 outfalls, compensating reservoirs, and other plants, structures,
17 boats, conveyances, and other real and personal property, and rights
18 therein, and appurtenances necessary or useful and convenient for
19 the collection, treatment, purification or disposal in a sanitary
20 manner of any sewage, liquid or solid wastes, night soil or
21 industrial wastes;

22 (10) "Utility system" shall mean a water system, solid waste
23 system, sewerage system, or a hydroelectric system or any
24 combination of such systems, acquired, constructed or operated or
25 to be acquired, constructed or operated by a municipal authority or
26 by any person to whom a municipal authority has extended credit
27 for this purpose;

28 (11) "Cost" shall mean, in addition to the usual connotations
29 thereof, the cost of acquisition or construction of all or any part of a
30 utility system and of all or any property, rights, easements,
31 privileges, agreements and franchises deemed by the municipal
32 authority to be necessary or useful and convenient therefor or in
33 connection therewith and the cost of retiring the present value of the
34 unfunded accrued liability due and owing by a municipal authority,
35 as calculated by the system actuary for a date certain upon the
36 request of a municipal authority, for early retirement incentive
37 benefits granted by the municipal authority pursuant to P.L.1991,
38 c.230 and P.L.1993, c.181, including interest or discount on bonds,
39 cost of issuance of bonds, engineering and inspection costs and
40 legal expenses, cost of financial, professional and other estimates
41 and advice, organization, administrative, operating and other
42 expenses of the municipal authority prior to and during such
43 acquisition or construction, and all such other expenses as may be
44 necessary or incident to the financing, acquisition, construction and
45 completion of said utility system or part thereof and the placing of
46 the same in operation, and also such provision or reserves for
47 working capital, operating, maintenance or replacement expenses or
48 for payment or security of principal of or interest on bonds during

1 or after such acquisition or construction as the municipal authority
2 may determine, and also reimbursements to the municipal authority
3 or any county, municipality or other person of any moneys
4 theretofore expended for the purposes of the municipal authority or
5 to any county or municipality of any moneys theretofore expended
6 for or in connection with water supply, solid waste, water
7 distribution, sanitation or hydroelectric facilities;

8 (12) "Real property" shall mean lands both within or without the
9 State, and improvements thereof or thereon, or any rights or
10 interests therein;

11 (13) "Construct" and "construction" shall connote and include
12 acts of construction, reconstruction, replacement, extension,
13 improvement and betterment of a utility system;

14 (14) "Industrial wastes" shall mean liquid or other wastes
15 resulting from any processes of industry, manufacture, trade or
16 business or from the development of any natural resource, and shall
17 include any chemical wastes or hazardous wastes;

18 (15) "Sewage" shall mean the water-carried wastes created in and
19 carried, or to be carried, away from, or to be processed by on-site
20 wastewater systems, residences, hotels, apartments, schools,
21 hospitals, industrial establishments, or any other public or private
22 building, together with such surface or ground water and industrial
23 wastes and leacheate as may be present;

24 (16) "On-site wastewater system" means any of several facilities,
25 septic tanks or other devices, used to collect, treat, reclaim, or
26 dispose of wastewater or sewage on or adjacent to the property on
27 which the wastewater or sewage is produced, or to convey such
28 wastewater or sewage from said property to such facilities as the
29 authority may establish for its disposal;

30 (17) "Pollution" means the condition of water resulting from the
31 introduction therein of substances of a kind and in quantities
32 rendering it detrimental or immediately or potentially dangerous to
33 the public health, or unfit for public or commercial use;

34 (18) "Bonds" shall mean bonds or other obligations issued
35 pursuant to this act;

36 (19) "Service charges" shall mean water service charges, solid
37 waste service charges, sewer service charges, hydroelectric service
38 charges or any combination of such charges, as said terms are
39 defined in section 21 or 22 of this act or in section 7 of this
40 amendatory and supplementary act;

41 (20) "Compensating reservoir" shall mean the structures,
42 facilities and appurtenances for the impounding, transportation and
43 release of water for the replenishment in periods of drought or at
44 other necessary times of all or a part of waters in or bordering the
45 State diverted into a utility system operated by a municipal
46 authority;

47 (21) "Sewage or water reclamation authority" shall mean a public
48 body created pursuant to the "sewerage authorities law," P.L.1946,

1 c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof or
2 supplemental thereto;

3 (22) "County sewer authority" shall mean a sanitary sewer
4 district authority created pursuant to the act entitled "An act relating
5 to the establishment of sewerage districts in first- and second-class
6 counties, the creation of Sanitary Sewer District Authorities by the
7 establishing of such districts, prescribing the powers and duties of
8 any such authority and of other public bodies in connection with the
9 construction of sewers and sewage disposal facilities in any such
10 district, and providing the ways and means for paying the costs of
11 construction and operation thereof," approved April 23, 1946
12 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
13 thereto;

14 (23) "Chemical waste" shall mean a material normally generated
15 by or used in chemical, petrochemical, plastic, pharmaceutical,
16 biochemical or microbiological manufacturing processes or
17 petroleum refining processes, which has been selected for waste
18 disposal and which is known to hydrolyze, ionize or decompose,
19 which is soluble, burns or oxidizes, or which may react with any of
20 the waste materials which are introduced into the landfill, or which
21 is buoyant on water, or which has a viscosity less than that of water
22 or which produces a foul odor. Chemical waste may be either
23 hazardous or nonhazardous;

24 (24) "Effluent" shall mean liquids which are treated in and
25 discharged by sewage treatment plants;

26 (25) "Hazardous wastes" shall mean any waste or combination of
27 waste which poses a present or potential threat to human health,
28 living organisms or the environment. "Hazardous waste" shall
29 include, but not be limited to, waste material that is toxic, corrosive,
30 irritating, sensitizing, radioactive, biologically infectious, explosive
31 or flammable;

32 (26) "Leachate" shall mean a liquid that has been in contact with
33 solid waste and contains dissolved or suspended materials from that
34 solid waste;

35 (27) "Recycling" shall mean the separation, collection,
36 processing or recovery of metals, glass, paper, solid waste and other
37 materials for reuse or for energy production and shall include
38 resource recovery;

39 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
40 generated from a municipal, industrial or other sewage treatment
41 plant, water supply treatment plant, or air pollution control facility,
42 or any other such waste having similar characteristics and effects;
43 "sludge" shall not include effluent;

44 (29) "Solid waste" shall mean garbage, refuse, and other
45 discarded materials resulting from industrial, commercial and
46 agricultural operations, and from domestic and community
47 activities, and shall include all other waste materials including
48 sludge, chemical waste, hazardous wastes and liquids, except for

1 liquids which are treated in public sewage treatment plants and
2 except for solid animal and vegetable wastes collected by swine
3 producers licensed by the State Department of Agriculture to
4 collect, prepare and feed such wastes to swine on their own farms;

5 (30) "Solid waste system" shall mean and include the plants,
6 structures and other real and personal property acquired,
7 constructed or operated or to be acquired, constructed or operated
8 by an authority or by any person to whom a municipal authority has
9 extended credit for this purpose pursuant to the provisions of this
10 act, including transfer stations, incinerators, recycling facilities,
11 including facilities for the generation, transmission and distribution
12 of energy derived from the processing of solid waste, sanitary
13 landfill facilities or other property or plants for the collection,
14 recycling or disposal of solid waste and all vehicles, equipment and
15 other real and personal property and rights thereon and
16 appurtenances necessary or useful and convenient for the collection,
17 recycling, or disposal of solid waste in a sanitary manner;

18 (31) "Hydroelectric system" shall mean the plants, structures and
19 other real and personal property acquired, constructed or operated
20 or to be acquired, constructed or operated by an authority pursuant
21 to the provisions of this act, including all that which is necessary or
22 useful and convenient for the generation, transmission and sale of
23 hydroelectric power at wholesale;

24 (32) "Hydroelectric power" shall mean the production of electric
25 current by the energy of moving water;

26 (33) "Sale of hydroelectric power at wholesale" shall mean any
27 sale of hydroelectric power to any person for purposes of resale of
28 such power;

29 (34) "Alternative electrical energy" shall mean electrical energy
30 produced from solar, photovoltaic, wind, geothermal, or biomass
31 technologies, provided that in the case of biomass technology, the
32 biomass is cultivated and harvested in a sustainable manner;

33 ¹**[and]**¹

34 (35) "Alternative electrical energy system" shall mean any
35 system which uses alternative electrical energy to provide all or a
36 portion of the electricity for the heating, cooling, or general
37 electrical energy needs of a building¹;

38 (36) "Pilot county" shall mean a county of the second class
39 having a population between 280,000 and 290,000, a population
40 between 510,000 and 520,000, and a population between 530,000
41 and 540,000 according to the 2010 federal decennial census; and

42 (37) "Pilot county utilities authority" shall mean a county
43 utilities authority in a county designated as a pilot county¹.

44 (cf: P.L.2007, c.306, s.1)

45

46 ¹**[2.]** 4.¹ Section 19 of P.L.1957, c.183 (C.40:14B-19) is
47 amended to read as follows:

1 19. (a) The purposes of every municipal authority shall be (1)
2 the provision and distribution of an adequate supply of water for the
3 public and private uses of the local units, and their inhabitants,
4 within the district, and (2) the relief of waters in or bordering the
5 State from pollution arising from causes within the district and the
6 relief of waters in, bordering or entering the district from pollution
7 or threatened pollution, and the consequent improvement of
8 conditions affecting the public health, (3) the provision of sewage
9 collection and disposal service within or without the district, and (4)
10 the provision of water supply and distribution service in such areas
11 without the district as are permitted by the provisions of this act,
12 and (5) the provision of solid waste services and facilities within or
13 without the district in a manner consistent with the Solid Waste
14 Management Act, P.L.1970, c.39 (C.13:1E-1 et seq.) and in
15 conformance with the solid waste management plans adopted by the
16 solid waste management districts created therein, and (6) the
17 generation, transmission and sale of hydroelectric power at
18 wholesale, **[and]** (7) the operation and maintenance of utility
19 systems owned by other governments located within the district
20 through contracts with said governments, and (8) in the case of an
21 authority that is a 'pilot' county utilities authority, to fund
22 improvements to county infrastructure pursuant to the provisions of
23 subsection b. of section 40 of P.L.1957, c.183 (C.40:14B-40).

24 (b) Every municipal authority is hereby authorized, subject to
25 the limitations of this act, to acquire, in its own name but for the
26 local unit or units, by purchase, gift, condemnation or otherwise,
27 lease as lessee, and, notwithstanding the provisions of any charter,
28 ordinance or resolution of any county or municipality to the
29 contrary, to construct, maintain, operate and use such reservoirs,
30 basins, dams, canals, aqueducts, standpipes, conduits, pipelines,
31 mains, pumping and ventilating stations, treatment, purification and
32 filtration plants or works, trunk, intercepting and outlet sewers,
33 water distribution systems, waterworks, sources of water supply and
34 wells at such places within or without the district, such
35 compensating reservoirs within a county in which any part of the
36 district lies, and such other plants, structures, boats and
37 conveyances, as in the judgment of the municipal authority will
38 provide an effective and satisfactory method for promoting
39 purposes of the municipal authority.

40 (c) Every municipal authority is hereby authorized and directed,
41 when in its judgment its sewerage system or any part thereof will
42 permit, to collect from any and all public systems within the district
43 all sewage and treat and dispose of the same in such manner as to
44 promote purposes of the municipal authority.

45 (d) Every municipal utilities authority is authorized to promote
46 the production and use of alternative electrical energy by
47 contracting with producers of alternative electrical energy for the
48 installation, construction, maintenance, repair, renewal, relocation,

1 or removal of alternative electrical energy systems, and for the
2 purchase of excess alternative electrical energy generated by a
3 producer of alternative electrical energy. Any purchase or sale of
4 alternative electrical energy where such energy is distributed using
5 the infrastructure of a public utility, as that term is defined in
6 R.S.48:2-13, shall include the payment by the purchaser of all
7 relevant non-bypassable charges as provided for in the "Electric
8 Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49
9 et al.).
10 (cf: P.L.2007, c.306, s.2)

11

12 ¹**[3.]** 5.¹ Section 20 of P.L.1957, c.183 (C.40:14B-20) is
13 amended to read as follows:

14 20. Every municipal authority shall be a public body politic and
15 corporate constituting a political subdivision of the State
16 established as an instrumentality exercising public and essential
17 governmental functions to provide for the public health and welfare
18 and shall have perpetual succession and have the following powers:

19 (1) To adopt and have a common seal and to alter the same at
20 pleasure;

21 (2) To sue and be sued;

22 (3) In the name of the municipal authority and on its behalf, to
23 acquire, hold, use and dispose of its service charges and other
24 revenues and other moneys;

25 (4) In the name of the municipal authority but for the local unit
26 or units, to acquire, rent, hold, lease as lessor, use and dispose of
27 other personal property for the purposes of the municipal authority;

28 (5) In the name of the municipal authority but for the local unit
29 or units and subject to the limitations of this act, to acquire by
30 purchase, gift, condemnation or otherwise, or lease as lessee, real
31 property and easements therein, necessary or useful and convenient
32 for the purposes of the municipal authority, and subject to
33 mortgages, deeds of trust or other liens, or otherwise, and to hold,
34 lease as lessor, and to use the same, and to dispose of property so
35 acquired no longer necessary for the purposes of the municipal
36 authority;

37 (6) To produce, develop, purchase, accumulate, distribute and
38 sell water and water services, facilities and products within or
39 without the district, provided that no water shall be sold at retail in
40 any municipality or county without the district unless the governing
41 body of such municipality or county shall have adopted a resolution
42 requesting the municipal authority to sell water at retail in such
43 municipality or county, and the board of public utility
44 commissioners shall have approved such resolution as necessary
45 and proper for the public convenience;

46 (7) To provide for and secure the payment of any bonds and the
47 rights of the holders thereof, and to purchase, hold and dispose of
48 any bonds;

1 (8) To accept gifts or grants of real or personal property, money,
2 material, labor or supplies for the purposes of the municipal or
3 county authority, and to make and perform such agreements and
4 contracts as may be necessary or convenient in connection with the
5 procuring, acceptance or disposition of such gifts or grants;

6 (9) To enter on any lands, waters or premises for the purpose of
7 making surveys, borings, soundings and examinations for the
8 purposes of the municipal authority, and whenever the operation of
9 a septic tank or other component of an on-site wastewater system
10 shall result in the creation of pollution or contamination source on
11 private property such that under the provisions of R.S.26:3-49, a
12 local board of health would have the authority to notify the owner
13 and require said owner to abate the same, representatives of an
14 authority shall have the power to enter, at all reasonable times, any
15 premises on which such pollution or contamination source shall
16 exist, for the purpose of inspecting, rehabilitating, securing samples
17 of any discharges, improving, repairing, replacing, or upgrading
18 such septic tank or other component of an on-site wastewater
19 system;

20 (10) To establish an inspection program to be performed at least
21 once every three years on all on-site wastewater systems installed
22 within the district which inspection program shall contain the
23 following minimum notice provisions: (i) not less than 30 days
24 prior to the date of the inspection of any on-site wastewater system
25 as described herein, the authority shall notify the owner and
26 resident of the property that the inspection will occur; and (ii) not
27 less than 60 days prior to the date of the performance of any work
28 other than an inspection, the municipal authority shall provide
29 notice to the owner and resident of the property in which the work
30 will be performed. The notice to be provided to such owner and
31 resident under this subsection shall include a description of the
32 deficiency which necessitates the work and the proposed remedial
33 action, and the proposed date for beginning and duration of the
34 contemplated remedial action;

35 (11) To prepare and file in the office of the municipal authority
36 records of all inspections, rehabilitation, maintenance, and work,
37 performed with respect to on-site wastewater disposal systems;

38 (12) To make and enforce bylaws or rules and regulations for the
39 management and regulation of its business and affairs and for the
40 use, maintenance and operation of the utility system and any other
41 of its properties, and to amend the same;

42 (13) To do and perform any acts and things authorized by this act
43 under, through or by means of its own officers, agents and
44 employees, or by contracts with any person;

45 (14) To enter into any and all contracts, execute any and all
46 instruments, and do and perform any and all acts or things
47 necessary, convenient or desirable for the purposes of the municipal
48 authority or to carry out any power expressly given in this act

1 subject to the "Local Public Contracts Law," P.L.1971, c.198
2 (C.40A:11-1 et seq.);

3 (15) To extend credit or make loans to any person for the
4 planning, designing, acquiring, constructing, reconstructing,
5 improving, equipping, furnishing, and operating by that person of
6 any part of a solid waste system, sewage treatment system,
7 wastewater treatment or collection system for the provision of
8 services and facilities within or without the district, which in the
9 case of a solid waste system shall be in a manner consistent with the
10 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
11 and in conformance with the solid waste management plans adopted
12 by the solid waste management districts created therein. The
13 credits or loans may be secured by loan and security agreements,
14 mortgages, leases and any other instruments, upon such terms as the
15 authority shall deem reasonable, including provision for the
16 establishment and maintenance of reserve and insurance funds, and
17 to require the inclusion in any mortgage, lease, contract, loan and
18 security agreement or other instrument, provisions for the
19 construction, use, operation and maintenance and financing of that
20 part of the aforementioned systems as the authority may deem
21 necessary or desirable; **[and]**

22 (16) Upon the request of a customer: (i) to offer the customer the
23 ability to receive or access, in electronic format, any periodic bill
24 for service sent by the municipal authority to its customers and any
25 additional information sent by the municipal authority to its
26 customers as required by law, provided that any notice of
27 disconnection, discontinuance or termination of service shall be
28 sent to a customer in written form at the customer's legal mailing
29 address in addition to being sent or being made available in
30 electronic format; and (ii) to provide the customer the option of
31 paying any such periodic bill via electronic means; and

32 (17) In the case of an authority that is a 'pilot' county utilities
33 authority, to fund improvements to county infrastructure pursuant to
34 the provisions of subsection b. of section 40 of P.L.1957, c.183
35 (C.40:14B-40).

36 (cf: P.L.2010, c.91, s.2)

37

38 ¹**[4.]** 6.¹ Section 40 of P.L.1957, c.183 (C.40:14B-40) is
39 amended to read as follows:

40 40. a. In addition to other powers conferred by this act or by
41 any other law, and not in limitation thereof, every municipal
42 authority, in connection with construction or operation of any part
43 of a utility system, shall have power to make reasonable regulations
44 for the installation, construction, maintenance, repair, renewal,
45 relocation and removal of tracks, pipes, mains, conduits, cables,
46 wires, towers, poles or any other equipment and appliances (herein
47 called "facilities") of any public utility, as defined in section 48:2-
48 13 of the Revised Statutes, in, on, along, over or under any real

1 property, including public lands, waters, parks, roads, streets,
 2 highways, playgrounds and reservations. Whenever in connection
 3 with construction or operation of any part of a utility system, any
 4 municipal authority shall determine that it is necessary that any
 5 such facilities, which now are, or hereafter may be, located in, on,
 6 along, over or under any such real property, including public lands,
 7 waters, parks, roads, streets, highways, playgrounds and
 8 reservations, should be relocated in such real property, including
 9 public lands, waters, parks, roads, streets, highways, playgrounds
 10 and reservations, or should be removed therefrom, the public utility
 11 owning or operating such facilities shall relocate or remove the
 12 same in accordance with the order of the municipal authority,
 13 provided, however, that the cost and expenses of such relocation or
 14 removal, including the cost of installing such facilities in a new
 15 location, or new locations, and the cost of any lands or any rights
 16 or interest in lands, or any other rights acquired to accomplish such
 17 relocation or removal, less the cost of any lands or any rights or
 18 interests in lands or any other rights of the public utility paid to the
 19 public utility in connection with the relocation or removal of such
 20 property, shall be paid by the municipal authority and may be
 21 included in the cost of such utility system. In case of any such
 22 relocation or removal of facilities, as aforesaid, the public utility
 23 owning or operating the same, its successors or assigns, may
 24 maintain and operate such facilities, with the necessary
 25 appurtenances, in the new location or new locations for as long a
 26 period, and upon the same terms and conditions, as it had the right
 27 to maintain and operate such facilities in their former location.

28 b. In addition to the powers conferred by subsection a. of this
 29 section, an authority that is a ¹pilot¹ county utilities authority also
 30 shall have the power to fund improvements to county infrastructure
 31 ¹in municipalities that are located in the pilot county and are served
 32 by the pilot county utilities authority,¹ through the ¹pilot county
 33 utilities¹ authority's undesignated fund balance or unreserved
 34 retained earnings. Any such infrastructure improvements shall only
 35 be made by written agreement between the ¹pilot county utilities¹
 36 authority and the governing body of the ¹pilot¹ county ², and only
 37 following application to and approval by the Director of Local
 38 Government Services in the Department of Community Affairs².
 39 (cf: P.L.1957, c.183, s.40)

40
 41 ¹[5.] ^{7.}¹ This act shall take effect immediately ²and shall expire
 42 four years following the date of enactment².

43
 44
 45
 46 _____
 47 Creates pilot program to allow certain county utilities authorities
 to fund certain local infrastructure.

ASSEMBLY, No. 4232

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 10, 2013

Sponsored by:

Assemblyman ANGEL FUENTES

District 5 (Camden and Gloucester)

Assemblyman TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Permits county utilities authorities to fund certain local infrastructure.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2013)

1 AN ACT concerning the powers of certain local authorities and
2 amending P.L.1957, c.183.

3

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

6

7 1. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to
8 read as follows:

9 3. As used in this act, unless a different meaning clearly
10 appears from the context:

11 (1) "Municipality" shall mean any city of any class, any
12 borough, village, town, township, or any other municipality other
13 than a county or a school district, and except when used in section
14 4, 5, 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any
15 two or more thereof acting jointly or any joint meeting or other
16 agency of any two or more thereof;

17 (2) "County" shall mean any county of any class;

18 (3) "Governing body" shall mean, in the case of a county, the
19 board of chosen freeholders, or in the case of those counties
20 organized pursuant to the provisions of the "Optional County
21 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of
22 chosen freeholders and the county executive, the county supervisor
23 or the county manager, as appropriate, and, in the case of a
24 municipality, the commission, council, board or body, by whatever
25 name it may be known, having charge of the finances of the
26 municipality;

27 (4) "Person" shall mean any person, association, corporation,
28 nation, state or any agency or subdivision thereof, other than a
29 county or municipality of the State or a municipal authority;

30 (5) "Municipal authority," "authority," or "water reclamation
31 authority" shall mean a public body created or organized pursuant
32 to section 4, 5 or 6 of this act and shall include a municipal utilities
33 authority created by one or more municipalities and a county
34 utilities authority created by a county;

35 (6) Subject to the exceptions provided in section 10, 11 or 12 of
36 this act, "district" shall mean the area within the territorial
37 boundaries of the county, or of the municipality or municipalities,
38 which created or joined in or caused the creation or organization of
39 a municipal authority;

40 (7) "Local unit" shall mean the county, or any municipality,
41 which created or joined in or caused the creation or organization of
42 a municipal authority;

43 (8) "Water system" shall mean the plants, structures and other
44 real and personal property acquired, constructed or operated or to be
45 acquired, constructed or operated by a municipal authority or by

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 any person to whom a municipal authority has extended credit for
2 this purpose for the purposes of the municipal authority, including
3 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
4 pipelines, mains, pumping stations, water distribution systems,
5 compensating reservoirs, waterworks or sources of water supply,
6 wells, purification or filtration plants or other plants and works,
7 connections, rights of flowage or division, and other plants,
8 structures, boats, conveyances, and other real and personal property,
9 and rights therein, and appurtenances necessary or useful and
10 convenient for the accumulation, supply and redistribution of water;

11 (9) "Sewerage system" shall mean the plants, structures, on-site
12 wastewater systems and other real and personal property acquired,
13 constructed or operated or to be acquired, constructed, maintained
14 or operated by a municipal authority or by any person to whom a
15 municipal authority has extended credit for this purpose for the
16 purposes of the municipal authority, including sewers, conduits,
17 pipelines, mains, pumping and ventilating stations, sewage
18 treatment or disposal systems, plants and works, connections,
19 outfalls, compensating reservoirs, and other plants, structures,
20 boats, conveyances, and other real and personal property, and rights
21 therein, and appurtenances necessary or useful and convenient for
22 the collection, treatment, purification or disposal in a sanitary
23 manner of any sewage, liquid or solid wastes, night soil or
24 industrial wastes;

25 (10) "Utility system" shall mean a water system, solid waste
26 system, sewerage system, or a hydroelectric system or any
27 combination of such systems, acquired, constructed or operated or
28 to be acquired, constructed or operated by a municipal authority or
29 by any person to whom a municipal authority has extended credit
30 for this purpose;

31 (11) "Cost" shall mean, in addition to the usual connotations
32 thereof, the cost of acquisition or construction of all or any part of a
33 utility system and of all or any property, rights, easements,
34 privileges, agreements and franchises deemed by the municipal
35 authority to be necessary or useful and convenient therefor or in
36 connection therewith and the cost of retiring the present value of the
37 unfunded accrued liability due and owing by a municipal authority,
38 as calculated by the system actuary for a date certain upon the
39 request of a municipal authority, for early retirement incentive
40 benefits granted by the municipal authority pursuant to P.L.1991,
41 c.230 and P.L.1993, c.181, including interest or discount on bonds,
42 cost of issuance of bonds, engineering and inspection costs and
43 legal expenses, cost of financial, professional and other estimates
44 and advice, organization, administrative, operating and other
45 expenses of the municipal authority prior to and during such
46 acquisition or construction, and all such other expenses as may be
47 necessary or incident to the financing, acquisition, construction and
48 completion of said utility system or part thereof and the placing of

1 the same in operation, and also such provision or reserves for
2 working capital, operating, maintenance or replacement expenses or
3 for payment or security of principal of or interest on bonds during
4 or after such acquisition or construction as the municipal authority
5 may determine, and also reimbursements to the municipal authority
6 or any county, municipality or other person of any moneys
7 theretofore expended for the purposes of the municipal authority or
8 to any county or municipality of any moneys theretofore expended
9 for or in connection with water supply, solid waste, water
10 distribution, sanitation or hydroelectric facilities;

11 (12) "Real property" shall mean lands both within or without the
12 State, and improvements thereof or thereon, or any rights or
13 interests therein;

14 (13) "Construct" and "construction" shall connote and include
15 acts of construction, reconstruction, replacement, extension,
16 improvement and betterment of a utility system;

17 (14) "Industrial wastes" shall mean liquid or other wastes
18 resulting from any processes of industry, manufacture, trade or
19 business or from the development of any natural resource, and shall
20 include any chemical wastes or hazardous wastes;

21 (15) "Sewage" shall mean the water-carried wastes created in and
22 carried, or to be carried, away from, or to be processed by on-site
23 wastewater systems, residences, hotels, apartments, schools,
24 hospitals, industrial establishments, or any other public or private
25 building, together with such surface or ground water and industrial
26 wastes and leacheate as may be present;

27 (16) "On-site wastewater system" means any of several facilities,
28 septic tanks or other devices, used to collect, treat, reclaim, or
29 dispose of wastewater or sewage on or adjacent to the property on
30 which the wastewater or sewage is produced, or to convey such
31 wastewater or sewage from said property to such facilities as the
32 authority may establish for its disposal;

33 (17) "Pollution" means the condition of water resulting from the
34 introduction therein of substances of a kind and in quantities
35 rendering it detrimental or immediately or potentially dangerous to
36 the public health, or unfit for public or commercial use;

37 (18) "Bonds" shall mean bonds or other obligations issued
38 pursuant to this act;

39 (19) "Service charges" shall mean water service charges, solid
40 waste service charges, sewer service charges, hydroelectric service
41 charges or any combination of such charges, as said terms are
42 defined in section 21 or 22 of this act or in section 7 of this
43 amendatory and supplementary act;

44 (20) "Compensating reservoir" shall mean the structures,
45 facilities and appurtenances for the impounding, transportation and
46 release of water for the replenishment in periods of drought or at
47 other necessary times of all or a part of waters in or bordering the

1 State diverted into a utility system operated by a municipal
2 authority;

3 (21) "Sewage or water reclamation authority" shall mean a public
4 body created pursuant to the "sewerage authorities law," P.L.1946,
5 c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof or
6 supplemental thereto;

7 (22) "County sewer authority" shall mean a sanitary sewer
8 district authority created pursuant to the act entitled "An act relating
9 to the establishment of sewerage districts in first- and second-class
10 counties, the creation of Sanitary Sewer District Authorities by the
11 establishing of such districts, prescribing the powers and duties of
12 any such authority and of other public bodies in connection with the
13 construction of sewers and sewage disposal facilities in any such
14 district, and providing the ways and means for paying the costs of
15 construction and operation thereof," approved April 23, 1946
16 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
17 thereto;

18 (23) "Chemical waste" shall mean a material normally generated
19 by or used in chemical, petrochemical, plastic, pharmaceutical,
20 biochemical or microbiological manufacturing processes or
21 petroleum refining processes, which has been selected for waste
22 disposal and which is known to hydrolyze, ionize or decompose,
23 which is soluble, burns or oxidizes, or which may react with any of
24 the waste materials which are introduced into the landfill, or which
25 is buoyant on water, or which has a viscosity less than that of water
26 or which produces a foul odor. Chemical waste may be either
27 hazardous or nonhazardous;

28 (24) "Effluent" shall mean liquids which are treated in and
29 discharged by sewage treatment plants;

30 (25) "Hazardous wastes" shall mean any waste or combination of
31 waste which poses a present or potential threat to human health,
32 living organisms or the environment. "Hazardous waste" shall
33 include, but not be limited to, waste material that is toxic, corrosive,
34 irritating, sensitizing, radioactive, biologically infectious, explosive
35 or flammable;

36 (26) "Leachate" shall mean a liquid that has been in contact with
37 solid waste and contains dissolved or suspended materials from that
38 solid waste;

39 (27) "Recycling" shall mean the separation, collection,
40 processing or recovery of metals, glass, paper, solid waste and other
41 materials for reuse or for energy production and shall include
42 resource recovery;

43 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
44 generated from a municipal, industrial or other sewage treatment
45 plant, water supply treatment plant, or air pollution control facility,
46 or any other such waste having similar characteristics and effects;
47 "sludge" shall not include effluent;

1 (29) "Solid waste" shall mean garbage, refuse, and other
2 discarded materials resulting from industrial, commercial and
3 agricultural operations, and from domestic and community
4 activities, and shall include all other waste materials including
5 sludge, chemical waste, hazardous wastes and liquids, except for
6 liquids which are treated in public sewage treatment plants and
7 except for solid animal and vegetable wastes collected by swine
8 producers licensed by the State Department of Agriculture to
9 collect, prepare and feed such wastes to swine on their own farms;

10 (30) "Solid waste system" shall mean and include the plants,
11 structures and other real and personal property acquired,
12 constructed or operated or to be acquired, constructed or operated
13 by an authority or by any person to whom a municipal authority has
14 extended credit for this purpose pursuant to the provisions of this
15 act, including transfer stations, incinerators, recycling facilities,
16 including facilities for the generation, transmission and distribution
17 of energy derived from the processing of solid waste, sanitary
18 landfill facilities or other property or plants for the collection,
19 recycling or disposal of solid waste and all vehicles, equipment and
20 other real and personal property and rights thereon and
21 appurtenances necessary or useful and convenient for the collection,
22 recycling, or disposal of solid waste in a sanitary manner;

23 (31) "Hydroelectric system" shall mean the plants, structures and
24 other real and personal property acquired, constructed or operated
25 or to be acquired, constructed or operated by an authority pursuant
26 to the provisions of this act, including all that which is necessary or
27 useful and convenient for the generation, transmission and sale of
28 hydroelectric power at wholesale;

29 (32) "Hydroelectric power" shall mean the production of electric
30 current by the energy of moving water;

31 (33) "Sale of hydroelectric power at wholesale" shall mean any
32 sale of hydroelectric power to any person for purposes of resale of
33 such power;

34 (34) "Alternative electrical energy" shall mean electrical energy
35 produced from solar, photovoltaic, wind, geothermal, or biomass
36 technologies, provided that in the case of biomass technology, the
37 biomass is cultivated and harvested in a sustainable manner; and

38 (35) "Alternative electrical energy system" shall mean any
39 system which uses alternative electrical energy to provide all or a
40 portion of the electricity for the heating, cooling, or general
41 electrical energy needs of a building.

42 (cf: P.L.2007, c.306, s.1)

43

44 2. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to
45 read as follows:

46 19. (a) The purposes of every municipal authority shall be (1)
47 the provision and distribution of an adequate supply of water for the
48 public and private uses of the local units, and their inhabitants,

1 within the district, and (2) the relief of waters in or bordering the
2 State from pollution arising from causes within the district and the
3 relief of waters in, bordering or entering the district from pollution
4 or threatened pollution, and the consequent improvement of
5 conditions affecting the public health, (3) the provision of sewage
6 collection and disposal service within or without the district, and (4)
7 the provision of water supply and distribution service in such areas
8 without the district as are permitted by the provisions of this act,
9 and (5) the provision of solid waste services and facilities within or
10 without the district in a manner consistent with the Solid Waste
11 Management Act, P.L.1970, c.39 (C.13:1E-1 et seq.) and in
12 conformance with the solid waste management plans adopted by the
13 solid waste management districts created therein, and (6) the
14 generation, transmission and sale of hydroelectric power at
15 wholesale, **[and]** (7) the operation and maintenance of utility
16 systems owned by other governments located within the district
17 through contracts with said governments, and (8) in the case of an
18 authority that is a county utilities authority, to fund improvements
19 to county infrastructure pursuant to the provisions of subsection b.
20 of section 40 of P.L.1957, c.183 (C.40:14B-40).

21 (b) Every municipal authority is hereby authorized, subject to
22 the limitations of this act, to acquire, in its own name but for the
23 local unit or units, by purchase, gift, condemnation or otherwise,
24 lease as lessee, and, notwithstanding the provisions of any charter,
25 ordinance or resolution of any county or municipality to the
26 contrary, to construct, maintain, operate and use such reservoirs,
27 basins, dams, canals, aqueducts, standpipes, conduits, pipelines,
28 mains, pumping and ventilating stations, treatment, purification and
29 filtration plants or works, trunk, intercepting and outlet sewers,
30 water distribution systems, waterworks, sources of water supply and
31 wells at such places within or without the district, such
32 compensating reservoirs within a county in which any part of the
33 district lies, and such other plants, structures, boats and
34 conveyances, as in the judgment of the municipal authority will
35 provide an effective and satisfactory method for promoting
36 purposes of the municipal authority.

37 (c) Every municipal authority is hereby authorized and directed,
38 when in its judgment its sewerage system or any part thereof will
39 permit, to collect from any and all public systems within the district
40 all sewage and treat and dispose of the same in such manner as to
41 promote purposes of the municipal authority.

42 (d) Every municipal utilities authority is authorized to promote
43 the production and use of alternative electrical energy by
44 contracting with producers of alternative electrical energy for the
45 installation, construction, maintenance, repair, renewal, relocation,
46 or removal of alternative electrical energy systems, and for the
47 purchase of excess alternative electrical energy generated by a
48 producer of alternative electrical energy. Any purchase or sale of

1 alternative electrical energy where such energy is distributed using
2 the infrastructure of a public utility, as that term is defined in
3 R.S.48:2-13, shall include the payment by the purchaser of all
4 relevant non-bypassable charges as provided for in the "Electric
5 Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49
6 et al.).
7 (cf: P.L.2007, c.306, s.2)

8
9 3. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
10 read as follows:

11 20. Every municipal authority shall be a public body politic and
12 corporate constituting a political subdivision of the State
13 established as an instrumentality exercising public and essential
14 governmental functions to provide for the public health and welfare
15 and shall have perpetual succession and have the following powers:

16 (1) To adopt and have a common seal and to alter the same at
17 pleasure;

18 (2) To sue and be sued;

19 (3) In the name of the municipal authority and on its behalf, to
20 acquire, hold, use and dispose of its service charges and other
21 revenues and other moneys;

22 (4) In the name of the municipal authority but for the local unit
23 or units, to acquire, rent, hold, lease as lessor, use and dispose of
24 other personal property for the purposes of the municipal authority;

25 (5) In the name of the municipal authority but for the local unit
26 or units and subject to the limitations of this act, to acquire by
27 purchase, gift, condemnation or otherwise, or lease as lessee, real
28 property and easements therein, necessary or useful and convenient
29 for the purposes of the municipal authority, and subject to
30 mortgages, deeds of trust or other liens, or otherwise, and to hold,
31 lease as lessor, and to use the same, and to dispose of property so
32 acquired no longer necessary for the purposes of the municipal
33 authority;

34 (6) To produce, develop, purchase, accumulate, distribute and
35 sell water and water services, facilities and products within or
36 without the district, provided that no water shall be sold at retail in
37 any municipality or county without the district unless the governing
38 body of such municipality or county shall have adopted a resolution
39 requesting the municipal authority to sell water at retail in such
40 municipality or county, and the board of public utility
41 commissioners shall have approved such resolution as necessary
42 and proper for the public convenience;

43 (7) To provide for and secure the payment of any bonds and the
44 rights of the holders thereof, and to purchase, hold and dispose of
45 any bonds;

46 (8) To accept gifts or grants of real or personal property, money,
47 material, labor or supplies for the purposes of the municipal or
48 county authority, and to make and perform such agreements and

1 contracts as may be necessary or convenient in connection with the
2 procuring, acceptance or disposition of such gifts or grants;

3 (9) To enter on any lands, waters or premises for the purpose of
4 making surveys, borings, soundings and examinations for the
5 purposes of the municipal authority, and whenever the operation of
6 a septic tank or other component of an on-site wastewater system
7 shall result in the creation of pollution or contamination source on
8 private property such that under the provisions of R.S.26:3-49, a
9 local board of health would have the authority to notify the owner
10 and require said owner to abate the same, representatives of an
11 authority shall have the power to enter, at all reasonable times, any
12 premises on which such pollution or contamination source shall
13 exist, for the purpose of inspecting, rehabilitating, securing samples
14 of any discharges, improving, repairing, replacing, or upgrading
15 such septic tank or other component of an on-site wastewater
16 system;

17 (10) To establish an inspection program to be performed at least
18 once every three years on all on-site wastewater systems installed
19 within the district which inspection program shall contain the
20 following minimum notice provisions: (i) not less than 30 days
21 prior to the date of the inspection of any on-site wastewater system
22 as described herein, the authority shall notify the owner and
23 resident of the property that the inspection will occur; and (ii) not
24 less than 60 days prior to the date of the performance of any work
25 other than an inspection, the municipal authority shall provide
26 notice to the owner and resident of the property in which the work
27 will be performed. The notice to be provided to such owner and
28 resident under this subsection shall include a description of the
29 deficiency which necessitates the work and the proposed remedial
30 action, and the proposed date for beginning and duration of the
31 contemplated remedial action;

32 (11) To prepare and file in the office of the municipal authority
33 records of all inspections, rehabilitation, maintenance, and work,
34 performed with respect to on-site wastewater disposal systems;

35 (12) To make and enforce bylaws or rules and regulations for the
36 management and regulation of its business and affairs and for the
37 use, maintenance and operation of the utility system and any other
38 of its properties, and to amend the same;

39 (13) To do and perform any acts and things authorized by this act
40 under, through or by means of its own officers, agents and
41 employees, or by contracts with any person;

42 (14) To enter into any and all contracts, execute any and all
43 instruments, and do and perform any and all acts or things
44 necessary, convenient or desirable for the purposes of the municipal
45 authority or to carry out any power expressly given in this act
46 subject to the "Local Public Contracts Law," P.L.1971, c.198
47 (C.40A:11-1 et seq.);

1 (15) To extend credit or make loans to any person for the
2 planning, designing, acquiring, constructing, reconstructing,
3 improving, equipping, furnishing, and operating by that person of
4 any part of a solid waste system, sewage treatment system,
5 wastewater treatment or collection system for the provision of
6 services and facilities within or without the district, which in the
7 case of a solid waste system shall be in a manner consistent with the
8 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
9 and in conformance with the solid waste management plans adopted
10 by the solid waste management districts created therein. The
11 credits or loans may be secured by loan and security agreements,
12 mortgages, leases and any other instruments, upon such terms as the
13 authority shall deem reasonable, including provision for the
14 establishment and maintenance of reserve and insurance funds, and
15 to require the inclusion in any mortgage, lease, contract, loan and
16 security agreement or other instrument, provisions for the
17 construction, use, operation and maintenance and financing of that
18 part of the aforementioned systems as the authority may deem
19 necessary or desirable; **[and]**

20 (16) Upon the request of a customer: (i) to offer the customer the
21 ability to receive or access, in electronic format, any periodic bill
22 for service sent by the municipal authority to its customers and any
23 additional information sent by the municipal authority to its
24 customers as required by law, provided that any notice of
25 disconnection, discontinuance or termination of service shall be
26 sent to a customer in written form at the customer's legal mailing
27 address in addition to being sent or being made available in
28 electronic format; and (ii) to provide the customer the option of
29 paying any such periodic bill via electronic means; and

30 (17) In the case of an authority that is a county utilities
31 authority, to fund improvements to county infrastructure pursuant to
32 the provisions of subsection b. of section 40 of P.L.1957, c.183
33 (C.40:14B-40).

34 (cf: P.L.2010, c.91, s.2)

35

36 4. Section 40 of P.L.1957, c.183 (C.40:14B-40) is amended to
37 read as follows:

38 40. a. In addition to other powers conferred by this act or by
39 any other law, and not in limitation thereof, every municipal
40 authority, in connection with construction or operation of any part
41 of a utility system, shall have power to make reasonable regulations
42 for the installation, construction, maintenance, repair, renewal,
43 relocation and removal of tracks, pipes, mains, conduits, cables,
44 wires, towers, poles or any other equipment and appliances (herein
45 called "facilities") of any public utility, as defined in section 48:2-
46 13 of the Revised Statutes, in, on, along, over or under any real
47 property, including public lands, waters, parks, roads, streets,
48 highways, playgrounds and reservations. Whenever in connection

1 with construction or operation of any part of a utility system, any
2 municipal authority shall determine that it is necessary that any
3 such facilities, which now are, or hereafter may be, located in, on,
4 along, over or under any such real property, including public lands,
5 waters, parks, roads, streets, highways, playgrounds and
6 reservations, should be relocated in such real property, including
7 public lands, waters, parks, roads, streets, highways, playgrounds
8 and reservations, or should be removed therefrom, the public utility
9 owning or operating such facilities shall relocate or remove the
10 same in accordance with the order of the municipal authority,
11 provided, however, that the cost and expenses of such relocation or
12 removal, including the cost of installing such facilities in a new
13 location, or new locations, and the cost of any lands or any rights
14 or interest in lands, or any other rights acquired to accomplish such
15 relocation or removal, less the cost of any lands or any rights or
16 interests in lands or any other rights of the public utility paid to the
17 public utility in connection with the relocation or removal of such
18 property, shall be paid by the municipal authority and may be
19 included in the cost of such utility system. 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
23 appurtenances, in the new location or new locations for as long a
24 period, and upon the same terms and conditions, as it had the right
25 to maintain and operate such facilities in their former location.

26 b. In addition to the powers conferred by subsection a. of this
27 section, an authority that is a county utilities authority also shall
28 have the power to fund improvements to county infrastructure
29 through the authority's undesignated fund balance or unreserved
30 retained earnings. Any such infrastructure improvements shall only
31 be made by written agreement between the authority and the
32 governing body of the county.

33 (cf: P.L.1957, c.183, s.40)

34

35 5. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill would permit county utilities authorities to fund
41 improvements to county infrastructure through the authority's
42 undesignated fund balance or unreserved retained earnings. Any
43 such infrastructure improvements shall only be made by written
44 agreement between the authority and the governing body of the
45 county.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4232

STATE OF NEW JERSEY

DATED: JUNE 17, 2013

The Assembly Budget Committee reports favorably Assembly Bill No. 4232.

This bill permits county utilities authorities to fund improvements to county infrastructure through the authorities' undesignated fund balance or unreserved retained earnings. The bill further provides that those projects shall only be made by written agreement between the authority and the governing body of the county.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note. The bill permits, but does not require, the use of county utilities authorities' undesignated fund balances or unreserved retained earnings for county infrastructure. Insufficient data are available to speculate as the amount of undesignated fund balances or unreserved retained earnings that would be drawn down for county infrastructure projects on account of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4232

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2013

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 4232, with committee amendments.

As amended by the committee, this bill establishes a pilot program to evaluate the efficiency and functionality of allowing county utilities authorities in certain counties, through the use of their undesignated fund balance or unreserved retained earnings, to fund improvements to county infrastructure in municipalities that are located in those counties and that are served by those county utilities authorities, as another method to repair or replace aging county infrastructure through a means other than the local property tax. Under the pilot program, the participating county utilities authorities are designated as “pilot county utilities authorities,” and the counties that created the pilot county utilities authorities would be designated as “pilot counties.”

Under the bill, as amended, the pilot county utilities authorities would be permitted to fund improvements within the pilot counties, and each would report to the Legislature annually on the county projects that have been funded by the pilot county utilities authorities.

COMMITTEE AMENDMENTS:

The committee’s amendments:

- add a “findings and declarations” section to the bill setting forth the reasons to create the pilot program;
- establish the parameters of the pilot program, including a determination of which counties will participate in the pilot program (Camden, Gloucester, and Union); and
- amend the appropriate sections of current law to reflect the authority of the pilot county utilities authorities to fund improvements to county infrastructure in municipalities that are located in those pilot counties and that are served by those pilot county utilities authorities.

The committee's amendments make the bill identical to the Senate Committee Substitute for Senate Bill No. 2844, which was also reported by the committee on this date.

SENATE, No. 2844

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JUNE 3, 2013

Sponsored by:

Senator DONALD NORCROSS

District 5 (Camden and Gloucester)

SYNOPSIS

Permits county utilities authorities to fund certain local infrastructure.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the powers of certain local authorities and
2 amending P.L.1957, c.183.

3

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

6

7 1. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read
8 as follows:

9 3. As used in this act, unless a different meaning clearly appears
10 from the context:

11 (1) "Municipality" shall mean any city of any class, any
12 borough, village, town, township, or any other municipality other
13 than a county or a school district, and except when used in section
14 4, 5, 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any
15 two or more thereof acting jointly or any joint meeting or other
16 agency of any two or more thereof;

17 (2) "County" shall mean any county of any class;

18 (3) "Governing body" shall mean, in the case of a county, the
19 board of chosen freeholders, or in the case of those counties
20 organized pursuant to the provisions of the "Optional County
21 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of
22 chosen freeholders and the county executive, the county supervisor
23 or the county manager, as appropriate, and, in the case of a
24 municipality, the commission, council, board or body, by whatever
25 name it may be known, having charge of the finances of the
26 municipality;

27 (4) "Person" shall mean any person, association, corporation,
28 nation, state or any agency or subdivision thereof, other than a
29 county or municipality of the State or a municipal authority;

30 (5) "Municipal authority," "authority," or "water reclamation
31 authority" shall mean a public body created or organized pursuant
32 to section 4, 5 or 6 of this act and shall include a municipal utilities
33 authority created by one or more municipalities and a county
34 utilities authority created by a county;

35 (6) Subject to the exceptions provided in section 10, 11 or 12 of
36 this act, "district" shall mean the area within the territorial
37 boundaries of the county, or of the municipality or municipalities,
38 which created or joined in or caused the creation or organization of
39 a municipal authority;

40 (7) "Local unit" shall mean the county, or any municipality,
41 which created or joined in or caused the creation or organization of
42 a municipal authority;

43 (8) "Water system" shall mean the plants, structures and other
44 real and personal property acquired, constructed or operated or to be
45 acquired, constructed or operated by a municipal authority or by

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.

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1 any person to whom a municipal authority has extended credit for
2 this purpose for the purposes of the municipal authority, including
3 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,
4 pipelines, mains, pumping stations, water distribution systems,
5 compensating reservoirs, waterworks or sources of water supply,
6 wells, purification or filtration plants or other plants and works,
7 connections, rights of flowage or division, and other plants,
8 structures, boats, conveyances, and other real and personal property,
9 and rights therein, and appurtenances necessary or useful and
10 convenient for the accumulation, supply and redistribution of water;

11 (9) "Sewerage system" shall mean the plants, structures, on-site
12 wastewater systems and other real and personal property acquired,
13 constructed or operated or to be acquired, constructed, maintained
14 or operated by a municipal authority or by any person to whom a
15 municipal authority has extended credit for this purpose for the
16 purposes of the municipal authority, including sewers, conduits,
17 pipelines, mains, pumping and ventilating stations, sewage
18 treatment or disposal systems, plants and works, connections,
19 outfalls, compensating reservoirs, and other plants, structures,
20 boats, conveyances, and other real and personal property, and rights
21 therein, and appurtenances necessary or useful and convenient for
22 the collection, treatment, purification or disposal in a sanitary
23 manner of any sewage, liquid or solid wastes, night soil or
24 industrial wastes;

25 (10) "Utility system" shall mean a water system, solid waste
26 system, sewerage system, or a hydroelectric system or any
27 combination of such systems, acquired, constructed or operated or
28 to be acquired, constructed or operated by a municipal authority or
29 by any person to whom a municipal authority has extended credit
30 for this purpose;

31 (11) "Cost" shall mean, in addition to the usual connotations
32 thereof, the cost of acquisition or construction of all or any part of a
33 utility system and of all or any property, rights, easements,
34 privileges, agreements and franchises deemed by the municipal
35 authority to be necessary or useful and convenient therefor or in
36 connection therewith and the cost of retiring the present value of the
37 unfunded accrued liability due and owing by a municipal authority,
38 as calculated by the system actuary for a date certain upon the
39 request of a municipal authority, for early retirement incentive
40 benefits granted by the municipal authority pursuant to P.L.1991,
41 c.230 and P.L.1993, c.181, including interest or discount on bonds,
42 cost of issuance of bonds, engineering and inspection costs and
43 legal expenses, cost of financial, professional and other estimates
44 and advice, organization, administrative, operating and other
45 expenses of the municipal authority prior to and during such
46 acquisition or construction, and all such other expenses as may be
47 necessary or incident to the financing, acquisition, construction and
48 completion of said utility system or part thereof and the placing of

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1 the same in operation, and also such provision or reserves for
2 working capital, operating, maintenance or replacement expenses or
3 for payment or security of principal of or interest on bonds during
4 or after such acquisition or construction as the municipal authority
5 may determine, and also reimbursements to the municipal authority
6 or any county, municipality or other person of any moneys
7 theretofore expended for the purposes of the municipal authority or
8 to any county or municipality of any moneys theretofore expended
9 for or in connection with water supply, solid waste, water
10 distribution, sanitation or hydroelectric facilities;

11 (12) "Real property" shall mean lands both within or without the
12 State, and improvements thereof or thereon, or any rights or
13 interests therein;

14 (13) "Construct" and "construction" shall connote and include
15 acts of construction, reconstruction, replacement, extension,
16 improvement and betterment of a utility system;

17 (14) "Industrial wastes" shall mean liquid or other wastes
18 resulting from any processes of industry, manufacture, trade or
19 business or from the development of any natural resource, and shall
20 include any chemical wastes or hazardous wastes;

21 (15) "Sewage" shall mean the water-carried wastes created in and
22 carried, or to be carried, away from, or to be processed by on-site
23 wastewater systems, residences, hotels, apartments, schools,
24 hospitals, industrial establishments, or any other public or private
25 building, together with such surface or ground water and industrial
26 wastes and leacheate as may be present;

27 (16) "On-site wastewater system" means any of several facilities,
28 septic tanks or other devices, used to collect, treat, reclaim, or
29 dispose of wastewater or sewage on or adjacent to the property on
30 which the wastewater or sewage is produced, or to convey such
31 wastewater or sewage from said property to such facilities as the
32 authority may establish for its disposal;

33 (17) "Pollution" means the condition of water resulting from the
34 introduction therein of substances of a kind and in quantities
35 rendering it detrimental or immediately or potentially dangerous to
36 the public health, or unfit for public or commercial use;

37 (18) "Bonds" shall mean bonds or other obligations issued
38 pursuant to this act;

39 (19) "Service charges" shall mean water service charges, solid
40 waste service charges, sewer service charges, hydroelectric service
41 charges or any combination of such charges, as said terms are
42 defined in section 21 or 22 of this act or in section 7 of this
43 amendatory and supplementary act;

44 (20) "Compensating reservoir" shall mean the structures,
45 facilities and appurtenances for the impounding, transportation and
46 release of water for the replenishment in periods of drought or at
47 other necessary times of all or a part of waters in or bordering the

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1 State diverted into a utility system operated by a municipal
2 authority;

3 (21) "Sewage or water reclamation authority" shall mean a public
4 body created pursuant to the "sewerage authorities law," P.L.1946,
5 c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof or
6 supplemental thereto;

7 (22) "County sewer authority" shall mean a sanitary sewer
8 district authority created pursuant to the act entitled "An act relating
9 to the establishment of sewerage districts in first- and second-class
10 counties, the creation of Sanitary Sewer District Authorities by the
11 establishing of such districts, prescribing the powers and duties of
12 any such authority and of other public bodies in connection with the
13 construction of sewers and sewage disposal facilities in any such
14 district, and providing the ways and means for paying the costs of
15 construction and operation thereof," approved April 23, 1946
16 (P.L.1946, c.123), or the acts amendatory thereof or supplemental
17 thereto;

18 (23) "Chemical waste" shall mean a material normally generated
19 by or used in chemical, petrochemical, plastic, pharmaceutical,
20 biochemical or microbiological manufacturing processes or
21 petroleum refining processes, which has been selected for waste
22 disposal and which is known to hydrolyze, ionize or decompose,
23 which is soluble, burns or oxidizes, or which may react with any of
24 the waste materials which are introduced into the landfill, or which
25 is buoyant on water, or which has a viscosity less than that of water
26 or which produces a foul odor. Chemical waste may be either
27 hazardous or nonhazardous;

28 (24) "Effluent" shall mean liquids which are treated in and
29 discharged by sewage treatment plants;

30 (25) "Hazardous wastes" shall mean any waste or combination of
31 waste which poses a present or potential threat to human health,
32 living organisms or the environment. "Hazardous waste" shall
33 include, but not be limited to, waste material that is toxic, corrosive,
34 irritating, sensitizing, radioactive, biologically infectious, explosive
35 or flammable;

36 (26) "Leachate" shall mean a liquid that has been in contact with
37 solid waste and contains dissolved or suspended materials from that
38 solid waste;

39 (27) "Recycling" shall mean the separation, collection,
40 processing or recovery of metals, glass, paper, solid waste and other
41 materials for reuse or for energy production and shall include
42 resource recovery;

43 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
44 generated from a municipal, industrial or other sewage treatment
45 plant, water supply treatment plant, or air pollution control facility,
46 or any other such waste having similar characteristics and effects;
47 "sludge" shall not include effluent;

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1 (29) "Solid waste" shall mean garbage, refuse, and other
2 discarded materials resulting from industrial, commercial and
3 agricultural operations, and from domestic and community
4 activities, and shall include all other waste materials including
5 sludge, chemical waste, hazardous wastes and liquids, except for
6 liquids which are treated in public sewage treatment plants and
7 except for solid animal and vegetable wastes collected by swine
8 producers licensed by the State Department of Agriculture to
9 collect, prepare and feed such wastes to swine on their own farms;

10 (30) "Solid waste system" shall mean and include the plants,
11 structures and other real and personal property acquired,
12 constructed or operated or to be acquired, constructed or operated
13 by an authority or by any person to whom a municipal authority has
14 extended credit for this purpose pursuant to the provisions of this
15 act, including transfer stations, incinerators, recycling facilities,
16 including facilities for the generation, transmission and distribution
17 of energy derived from the processing of solid waste, sanitary
18 landfill facilities or other property or plants for the collection,
19 recycling or disposal of solid waste and all vehicles, equipment and
20 other real and personal property and rights thereon and
21 appurtenances necessary or useful and convenient for the collection,
22 recycling, or disposal of solid waste in a sanitary manner;

23 (31) "Hydroelectric system" shall mean the plants, structures and
24 other real and personal property acquired, constructed or operated
25 or to be acquired, constructed or operated by an authority pursuant
26 to the provisions of this act, including all that which is necessary or
27 useful and convenient for the generation, transmission and sale of
28 hydroelectric power at wholesale;

29 (32) "Hydroelectric power" shall mean the production of electric
30 current by the energy of moving water;

31 (33) "Sale of hydroelectric power at wholesale" shall mean any
32 sale of hydroelectric power to any person for purposes of resale of
33 such power;

34 (34) "Alternative electrical energy" shall mean electrical energy
35 produced from solar, photovoltaic, wind, geothermal, or biomass
36 technologies, provided that in the case of biomass technology, the
37 biomass is cultivated and harvested in a sustainable manner; and

38 (35) "Alternative electrical energy system" shall mean any
39 system which uses alternative electrical energy to provide all or a
40 portion of the electricity for the heating, cooling, or general
41 electrical energy needs of a building.

42 (cf: P.L.2007, c.306, s.1)

43

44 2. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to
45 read as follows:

46 19. (a) The purposes of every municipal authority shall be (1)
47 the provision and distribution of an adequate supply of water for the
48 public and private uses of the local units, and their inhabitants,

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1 within the district, and (2) the relief of waters in or bordering the
2 State from pollution arising from causes within the district and the
3 relief of waters in, bordering or entering the district from pollution
4 or threatened pollution, and the consequent improvement of
5 conditions affecting the public health, (3) the provision of sewage
6 collection and disposal service within or without the district, and (4)
7 the provision of water supply and distribution service in such areas
8 without the district as are permitted by the provisions of this act,
9 and (5) the provision of solid waste services and facilities within or
10 without the district in a manner consistent with the Solid Waste
11 Management Act, P.L.1970, c.39 (C.13:1E-1 et seq.) and in
12 conformance with the solid waste management plans adopted by the
13 solid waste management districts created therein, and (6) the
14 generation, transmission and sale of hydroelectric power at
15 wholesale, [and] (7) the operation and maintenance of utility
16 systems owned by other governments located within the district
17 through contracts with said governments, and (8) in the case of an
18 authority that is a county utilities authority, to fund improvements
19 to county infrastructure pursuant to the provisions of subsection b.
20 of section 40 of P.L.1957, c.183 (C.40:14B-40).

21 (b) Every municipal authority is hereby authorized, subject to
22 the limitations of this act, to acquire, in its own name but for the
23 local unit or units, by purchase, gift, condemnation or otherwise,
24 lease as lessee, and, notwithstanding the provisions of any charter,
25 ordinance or resolution of any county or municipality to the
26 contrary, to construct, maintain, operate and use such reservoirs,
27 basins, dams, canals, aqueducts, standpipes, conduits, pipelines,
28 mains, pumping and ventilating stations, treatment, purification and
29 filtration plants or works, trunk, intercepting and outlet sewers,
30 water distribution systems, waterworks, sources of water supply and
31 wells at such places within or without the district, such
32 compensating reservoirs within a county in which any part of the
33 district lies, and such other plants, structures, boats and
34 conveyances, as in the judgment of the municipal authority will
35 provide an effective and satisfactory method for promoting
36 purposes of the municipal authority.

37 (c) Every municipal authority is hereby authorized and directed,
38 when in its judgment its sewerage system or any part thereof will
39 permit, to collect from any and all public systems within the district
40 all sewage and treat and dispose of the same in such manner as to
41 promote purposes of the municipal authority.

42 (d) Every municipal utilities authority is authorized to promote
43 the production and use of alternative electrical energy by
44 contracting with producers of alternative electrical energy for the
45 installation, construction, maintenance, repair, renewal, relocation,
46 or removal of alternative electrical energy systems, and for the
47 purchase of excess alternative electrical energy generated by a
48 producer of alternative electrical energy. Any purchase or sale of

1 alternative electrical energy where such energy is distributed using
2 the infrastructure of a public utility, as that term is defined in
3 R.S.48:2-13, shall include the payment by the purchaser of all
4 relevant non-bypassable charges as provided for in the "Electric
5 Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49
6 et al.).
7 (cf: P.L.2007, c.306, s.2)

8
9 3. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
10 read as follows:

11 20. Every municipal authority shall be a public body politic and
12 corporate constituting a political subdivision of the State
13 established as an instrumentality exercising public and essential
14 governmental functions to provide for the public health and welfare
15 and shall have perpetual succession and have the following powers:

16 (1) To adopt and have a common seal and to alter the same at
17 pleasure;

18 (2) To sue and be sued;

19 (3) In the name of the municipal authority and on its behalf, to
20 acquire, hold, use and dispose of its service charges and other
21 revenues and other moneys;

22 (4) In the name of the municipal authority but for the local unit
23 or units, to acquire, rent, hold, lease as lessor, use and dispose of
24 other personal property for the purposes of the municipal authority;

25 (5) In the name of the municipal authority but for the local unit
26 or units and subject to the limitations of this act, to acquire by
27 purchase, gift, condemnation or otherwise, or lease as lessee, real
28 property and easements therein, necessary or useful and convenient
29 for the purposes of the municipal authority, and subject to
30 mortgages, deeds of trust or other liens, or otherwise, and to hold,
31 lease as lessor, and to use the same, and to dispose of property so
32 acquired no longer necessary for the purposes of the municipal
33 authority;

34 (6) To produce, develop, purchase, accumulate, distribute and
35 sell water and water services, facilities and products within or
36 without the district, provided that no water shall be sold at retail in
37 any municipality or county without the district unless the governing
38 body of such municipality or county shall have adopted a resolution
39 requesting the municipal authority to sell water at retail in such
40 municipality or county, and the board of public utility
41 commissioners shall have approved such resolution as necessary
42 and proper for the public convenience;

43 (7) To provide for and secure the payment of any bonds and the
44 rights of the holders thereof, and to purchase, hold and dispose of
45 any bonds;

46 (8) To accept gifts or grants of real or personal property, money,
47 material, labor or supplies for the purposes of the municipal or
48 county authority, and to make and perform such agreements and

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1 contracts as may be necessary or convenient in connection with the
2 procuring, acceptance or disposition of such gifts or grants;

3 (9) To enter on any lands, waters or premises for the purpose of
4 making surveys, borings, soundings and examinations for the
5 purposes of the municipal authority, and whenever the operation of
6 a septic tank or other component of an on-site wastewater system
7 shall result in the creation of pollution or contamination source on
8 private property such that under the provisions of R.S.26:3-49, a
9 local board of health would have the authority to notify the owner
10 and require said owner to abate the same, representatives of an
11 authority shall have the power to enter, at all reasonable times, any
12 premises on which such pollution or contamination source shall
13 exist, for the purpose of inspecting, rehabilitating, securing samples
14 of any discharges, improving, repairing, replacing, or upgrading
15 such septic tank or other component of an on-site wastewater
16 system;

17 (10) To establish an inspection program to be performed at least
18 once every three years on all on-site wastewater systems installed
19 within the district which inspection program shall contain the
20 following minimum notice provisions: (i) not less than 30 days
21 prior to the date of the inspection of any on-site wastewater system
22 as described herein, the authority shall notify the owner and
23 resident of the property that the inspection will occur; and (ii) not
24 less than 60 days prior to the date of the performance of any work
25 other than an inspection, the municipal authority shall provide
26 notice to the owner and resident of the property in which the work
27 will be performed. The notice to be provided to such owner and
28 resident under this subsection shall include a description of the
29 deficiency which necessitates the work and the proposed remedial
30 action, and the proposed date for beginning and duration of the
31 contemplated remedial action;

32 (11) To prepare and file in the office of the municipal authority
33 records of all inspections, rehabilitation, maintenance, and work,
34 performed with respect to on-site wastewater disposal systems;

35 (12) To make and enforce bylaws or rules and regulations for the
36 management and regulation of its business and affairs and for the
37 use, maintenance and operation of the utility system and any other
38 of its properties, and to amend the same;

39 (13) To do and perform any acts and things authorized by this act
40 under, through or by means of its own officers, agents and
41 employees, or by contracts with any person;

42 (14) To enter into any and all contracts, execute any and all
43 instruments, and do and perform any and all acts or things
44 necessary, convenient or desirable for the purposes of the municipal
45 authority or to carry out any power expressly given in this act
46 subject to the "Local Public Contracts Law," P.L.1971, c.198
47 (C.40A:11-1 et seq.);

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10

1 (15) To extend credit or make loans to any person for the
2 planning, designing, acquiring, constructing, reconstructing,
3 improving, equipping, furnishing, and operating by that person of
4 any part of a solid waste system, sewage treatment system,
5 wastewater treatment or collection system for the provision of
6 services and facilities within or without the district, which in the
7 case of a solid waste system shall be in a manner consistent with the
8 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
9 and in conformance with the solid waste management plans adopted
10 by the solid waste management districts created therein. The
11 credits or loans may be secured by loan and security agreements,
12 mortgages, leases and any other instruments, upon such terms as the
13 authority shall deem reasonable, including provision for the
14 establishment and maintenance of reserve and insurance funds, and
15 to require the inclusion in any mortgage, lease, contract, loan and
16 security agreement or other instrument, provisions for the
17 construction, use, operation and maintenance and financing of that
18 part of the aforementioned systems as the authority may deem
19 necessary or desirable; **[and]**

20 (16) Upon the request of a customer: (i) to offer the customer the
21 ability to receive or access, in electronic format, any periodic bill
22 for service sent by the municipal authority to its customers and any
23 additional information sent by the municipal authority to its
24 customers as required by law, provided that any notice of
25 disconnection, discontinuance or termination of service shall be
26 sent to a customer in written form at the customer's legal mailing
27 address in addition to being sent or being made available in
28 electronic format; and (ii) to provide the customer the option of
29 paying any such periodic bill via electronic means; and

30 (17) In the case of an authority that is a county utilities
31 authority, to fund improvements to county infrastructure pursuant to
32 the provisions of subsection b. of section 40 of P.L.1957, c.183
33 (C.40:14B-40).

34 (cf: P.L.2010, c.91, s.2)

35

36 4. Section 40 of P.L.1957, c.183 (C.40:14B-40) is amended to
37 read as follows:

38 40. a. In addition to other powers conferred by this act or by
39 any other law, and not in limitation thereof, every municipal
40 authority, in connection with construction or operation of any part
41 of a utility system, shall have power to make reasonable regulations
42 for the installation, construction, maintenance, repair, renewal,
43 relocation and removal of tracks, pipes, mains, conduits, cables,
44 wires, towers, poles or any other equipment and appliances (herein
45 called "facilities") of any public utility, as defined in section 48:2-
46 13 of the Revised Statutes, in, on, along, over or under any real
47 property, including public lands, waters, parks, roads, streets,
48 highways, playgrounds and reservations. Whenever in connection

1 with construction or operation of any part of a utility system, any
2 municipal authority shall determine that it is necessary that any
3 such facilities, which now are, or hereafter may be, located in, on,
4 along, over or under any such real property, including public lands,
5 waters, parks, roads, streets, highways, playgrounds and
6 reservations, should be relocated in such real property, including
7 public lands, waters, parks, roads, streets, highways, playgrounds
8 and reservations, or should be removed therefrom, the public utility
9 owning or operating such facilities shall relocate or remove the
10 same in accordance with the order of the municipal authority,
11 provided, however, that the cost and expenses of such relocation or
12 removal, including the cost of installing such facilities in a new
13 location, or new locations, and the cost of any lands or any rights
14 or interest in lands, or any other rights acquired to accomplish such
15 relocation or removal, less the cost of any lands or any rights or
16 interests in lands or any other rights of the public utility paid to the
17 public utility in connection with the relocation or removal of such
18 property, shall be paid by the municipal authority and may be
19 included in the cost of such utility system. 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
23 appurtenances, in the new location or new locations for as long a
24 period, and upon the same terms and conditions, as it had the right
25 to maintain and operate such facilities in their former location.

26 b. In addition to the powers conferred by subsection a. of this
27 section, an authority that is a county utilities authority also shall
28 have the power to fund improvements to county infrastructure
29 through the authority's undesignated fund balance or unreserved
30 retained earnings. Any such infrastructure improvements shall only
31 be made by written agreement between the authority and the
32 governing body of the county.

33 (cf: P.L.1957, c.183, s.40)

34

35 5. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill would permit county utilities authorities to fund
41 improvements to county infrastructure through the authority's
42 undesignated fund balance or unreserved retained earnings. Any
43 such infrastructure improvements shall only be made by written
44 agreement between the authority and the governing body of the
45 county.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2844**

STATE OF NEW JERSEY

DATED: JUNE 24, 2013

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2844.

This committee substitute establishes a pilot program to evaluate the efficiency and functionality of allowing county utilities authorities in certain counties, through the use of their undesignated fund balance or unreserved retained earnings, to fund improvements to county infrastructure in municipalities that are located in those counties and that are served by those county utilities authorities, as another method to repair or replace aging county infrastructure through a means other than the local property tax. Under the pilot program, the participating county utilities authorities are designated as “pilot county utilities authorities,” and the counties that created the pilot county utilities authorities would be designated as “pilot counties.”

Under the committee substitute, the pilot county utilities authorities would be permitted to fund improvements within the pilot counties, and each would report to the Legislature annually on the county projects that have been funded by the pilot county utilities authorities.

The committee substitute is identical to Assembly Bill No. 4232, with committee amendments, which was also reported by the committee on this date.

ASSEMBLY BILL NO. 4232
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 4232 (First Reprint) with my recommendations for reconsideration.

This bill seeks to allow certain "pilot counties" to use the "undesignated fund balances" or "unreserved retained earnings" of county utilities authorities to fund county infrastructure projects, with such projects potentially unrelated to the water or wastewater infrastructure that is maintained by the individual utility authority.

While I support the sponsors' desire to find ways for counties to fund infrastructure projects without reliance on property taxes, this bill could unfairly burden New Jerseyans. In 2010, I signed into law the bipartisan measure that capped property tax hikes at a maximum of 2% per year, subject to limited exceptions. Enactment of "Cap 2.0" was a key first step in controlling the State's property tax burden and one of the most important early achievements of my Administration. It is imperative that we continue to limit the fiscal burdens on New Jerseyans. While this bill would advance the public policy goal of facilitating county utilities' efforts to support worthwhile infrastructure projects, it may also have the unintended consequence of increasing the burden on taxpayers through higher utility user fees.

Because the bill would permit the pilot counties to use utility funds to support other projects, I am concerned that the bill would put pressure on utilities to raise user fees or invest less in maintaining utility-related infrastructure. Imposing additional burdens on residents of this State, whether in the form of property taxes or fees, is unacceptable as we

continue to regain our economic footing. Likewise, disincentivizing the maintenance of vital utility-related infrastructure is problematic, especially when the State is continuing to recover from Superstorm Sandy. If a county wishes to fund a truly necessary infrastructure project, it should examine its own budget to appropriately prioritize spending.

Accordingly, I recommend that any arrangement that would allow counties to use utility funds for non-utility purposes should be subject to State oversight. Before a pilot county can use utility funds in the manner described in this bill, the county and the utility must apply to the Director of Local Government Services in the Department of Community Affairs and obtain his or her approval. Furthermore, I recommend that the pilot program expire after a period of four years.

I herewith return Assembly Bill No. 4232 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 2, Line 34:

Delete "The" and insert "Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the"

Page 2, Section 2, Line 36:

Delete "Legislature" and insert "Director of Local Government Services"

Page 12, Section 6, Line 25:

After "county" insert ", and only following application to and approval by the Director of Local Government Services in the Department of Community Affairs"

Page 12, Section 7, Line 28:

After "immediately" insert "and shall expire 4 years following the date of enactment"

[seal]

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Charles B. McKenna

Chief Counsel to the Governor