

40:23-34 to 40:23-46

LEGISLATIVE HISTORY CHECKLIST

("County Flood Control Financing Law")

NJSA 40:23-34 to 40:23-46; repeals 40:29-2 to 40:29-9

Laws of 1977 Chapter 333

Bill No. S3112

Sponsor(s) Dwyer & Russo

Date Introduced February 17, 1977

Committee: Assembly Energy & Natural Resources

Senate Energy & Environment

Amended during passage Yes No

Date of passage: Assembly Sept. 12, 1977

Senate May 23, 1977

Date of approval January 24, 1978

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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SENATE, No. 3112

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 17, 1977

By Senators DWYER and RUSSO

Referred to Committee on Energy and Environment

AN ACT permitting counties to finance, construct, acquire and operate flood control facilities which contribute to the overall management of the surface water of river basins; supplementing chapter 23 of Title 40 of the Revised Statutes; and repealing sections 40:29-2 through 40:29-9 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "County
2 Flood Control Financing Law."

1 2. It is hereby declared to be in the public interest and to be
2 the policy of this State to foster and promote by all reasonable
3 means the relief of persons and property from the adverse effects
4 of uncontrolled storm water drainage and conditions of flooding. It
5 is the purpose and object of this act to further implement such
6 policy by authorizing counties, either separately or in combination
7 with other counties or municipalities, to acquire, construct, main-
8-9 tain, operate or improve works for the collection, diversion,
10 impoundment, transportation and disposal of surface water in
11 order to foster flood control; to promote a basinwide or subbasin-
12 wide approach to controlling floods; and thereby to protect the
13 public from the adverse effects of uncontrolled storm water
14 drainage and conditions of flooding.

1 3. As used in this act the following words and terms shall have
2 the following meanings unless some other meaning is plainly
3 indicated:

4 a. "Cost," as applied to flood control facilities or extensions or
5 additions thereto, means and includes the cost of construction,
6 reconstruction or improvement, the cost of all labor, materials,
7 machinery and equipment, the cost of all lands, property, rights
8 and easements acquired, financing charges, interest on bonds issued

9 to finance such facilities prior to and during construction, cost of
10 plans and specifications, surveys or estimates of costs and of
11 revenues, cost of engineering and legal services, and all other
12 expenses necessary or incident to determining the feasibility or
13 practicability of such construction, reconstruction or improvement,
14 administrative expenses and such other expenses as may be neces-
15 sary or incident to the construction or acquisition of such facilities,
16 and the financing herein authorized. Any obligation or expense
17 incurred by any county in connection with any of the foregoing
18 items of cost prior to the issuance of bonds or notes as authorized
19 herein may be regarded as part of such cost and reimbursed to the
20 county out of the proceeds of bonds issued under the provisions of
21 this act;

22 b. "Flood control facilities" means the dams, drainageways,
23 structures and other real and personal property acquired, con-
24 structed or operated or to be acquired, constructed or operated by a
25 county for the purposes of flood control, including storage reser-
26 voirs, dikes, diversions, dams, spillways, levees, revetments, drains,
27 ditches or channel improvements, such as widening, deepening,
28 straightening, clearing, sloping, building and filling in, and other
29 plants, structures, boats, conveyances and other real and personal
30 property and rights therein, and appurtenances necessary or useful
31 and convenient for the control of flooding, the drainage of swamp
32 land, the preservation of stream flow and the management of
33 surface water;

34 c. "General obligation bonds" means general obligations of the
35 county which are payable from unlimited ad valorem taxes or from
36 such taxes and additionally secured by a pledge of the revenues
37 derived from the assessment of such local improvement charges as
38 may be assessed.

1 4. Any board of chosen freeholders may acquire, construct and
2 operate a flood control facility upon concluding, by resolution, that
3 the public health, safety and welfare can best be assured by the
4 acquisition or construction of such a facility by the county or in
5 cooperation with any municipality or any other county and that
6 such a facility will contribute to the overall management of the
7 surface water of the river basin or subbasin to be affected by such
8 a facility. Prior to reaching such a conclusion, the board of chosen
9 freeholders shall take cognizance of all existing and proposed
10 upstream and downstream developments which may affect or be
11 affected by the proposed flood control facility. The board of chosen
12 freeholders of any county choosing to implement this act shall
13 notify, by certified mail, all upstream and downstream munici-

14 palities, soil conservation districts, and counties and the State
15 Department of Environmental Protection of its intent to construct
16 one or more flood control facilities. Such notification shall include
17 a request for information from all such upstream governments to
18 indicate what proposed developments in their area might alter the
19 flow of water at the proposed flood control facility. The board of
20 chosen freeholders shall also make its staff available for consulta-
21 tion with those concerned public or private persons who may affect
22 or be affected by such a flood control facility.

23 Upon the completion of such a basinwide or subbasinwide
24 analysis and after consideration of the responses of concerned
25 parties, the board of chosen freeholders may adopt said resolution.

1 5. Any county which may hereafter come under the provisions of
2 this act as provided herein is hereby authorized and empowered:

3 a. To purchase, construct, improve, extend, enlarge or recon-
4 struct flood control facilities within or adjacent to such county
5 either alone or jointly with other counties or municipalities and
6 to operate, manage and control all or part of such facilities so
7 purchased or constructed and all properties pertaining thereto;

8 b. To issue general obligation bonds of the county to pay all or
9 part of the cost of such purchase, construction, improvement, exten-
10 sion, enlargement or reconstruction of such facilities;

11 c. To receive and accept from the Federal or State Governments
12 or any agency thereof grants for or in aid of the planning, pur-
13 chase, construction, extension, enlargement or reconstruction, or
14 financing of any of such facilities and to receive and accept contribu-
15 tions from any source of either money, property, labor, or other
16 things of value to be held, used and applied only for the purposes
17 for which such grants and contributions may be made;

18 d. To acquire in the name of the county by gift, purchase, or by
19 the exercise of the right of eminent domain, such lands and rights
20 and interests therein, including lands under water and riparian
21 rights, and to acquire such personal property, as it may deem
22 necessary for the purchase, construction, improvement, extension,
23 enlargement or reconstruction, or for the efficient operation of any
24 facilities purchased or constructed under the provisions of this act
25 and to hold and dispose of all real and personal property under its
26 control;

27 e. To make and enter into all contracts and agreements necessary
28 or incidental to the performance of its duties and the execution
29 of its powers under this act and to employ such consulting and
30 other engineers, superintendents, managers, attorneys, financial or
31 other consultants or experts and such other employees and agents

32 as it may deem necessary in its judgment and to fix their
33 compensation;

34 f. Subject to the provisions and restrictions as may be set forth
35 in any resolution authorizing or securing any bonds issued under
36 the provisions of this act, to enter into contracts with the govern-
37 ment of the United States or of the State, or any agency or
38 instrumentality of either thereof, or with any other county or with
39 any municipality, private corporation, copartnership, association,
40 or individual providing for or relating to flood control, which con-
41 tracts may provide for the furnishing of flood control services either
42 by or to the county, or the joint construction or operation of flood
43 control facilities.

1 6. Whenever the board of chosen freeholders of any county by
2 resolution chooses to exercise the powers granted by this act, it
3 shall make or cause to be made such surveys, investigations, studies,
4 borings, maps, plans, drawings and estimates of costs and of
5 revenues as it may deem necessary relating to the provisions of
6 flood control facilities, the purchase or construction of which shall
7 be deemed by the board to be desirable to protect the health and
8 safety of the inhabitants of the county.

9 The obtaining of such surveys, investigations, studies, borings,
10 maps, plans, drawings and estimates is hereby declared to be a
11 county purpose and the costs thereof may be paid out of the general
12 funds of the county or from the proceeds of any bonds issued
13 pursuant to this act.

14 All public or private property damaged or destroyed in carrying
15 out the powers granted by this act shall be restored or repaired and
16 placed in its original condition as nearly as practicable or adequate
17 compensation made therefor out of the funds provided by this act.

1 7. The board of chosen freeholders of any county exercising the
2 powers granted by this act is hereby authorized to provide by
3 resolution at one time, or from time to time, for the issuance of
4 general obligation bonds of the county for the purpose of paying
5 all or any part of the cost of any flood control facilities constructed,
6 acquired, improved, extended, enlarged or reconstructed pursuant
7 to this act. The bonds of each issue shall be issued pursuant to the
8 provisions of the Local Bond Law, N. J. S. 40A:2-1 et seq.

9 The proceeds of such bonds shall be used solely for the payment
10 of costs of the flood control facilities for the purchase, construction,
11 reconstruction, enlargement or improvement of which such bonds
12 shall have been authorized.

1 8. If in its judgment, any such board of chosen freeholders
2 determines that public necessity and interest require the cost of
3 construction of flood control facilities to be financed by local im-
4 provement assessments, it shall pass a resolution of its intention
5 to undertake and so finance such flood control facilities and shall
6 give notice of such intention by advertising in one or more news-
7 papers circulating in the county and by notifying each concerned
8 property owner by certified mail; and such notice shall fix a time
9 and place, not earlier than 2 weeks after the date of such notice,
10 for a public hearing on said proposed action. At said public hear-
11 ing the board of chosen freeholders shall present a tentative assess-
12 ment of the concerned properties. After said hearing, if the board
13 of chosen freeholders decides to carry out said local improvements,
14 it shall pass a resolution declaring such determination and proceed
15 to make such local improvements.

16 Upon the completion of said local improvements, the board of
17 chosen freeholders shall assess the costs and expenses of the flood
18 control facilities on the lands especially benefited thereby in pro-
19 portion to the benefit received. When the assessment shall be com-
20 pleted it shall be filed as a report with the clerk of the board of
21 chosen freeholders, who shall give notice, by advertising in one or
22 more newspapers circulated in the county and by notifying each
23 concerned property owner, by certified mail, of the fact that the
24 report has been filed and that the board of chosen freeholders will
25 meet at a time and place designated in the notice to hear
26 remonstrances against the same. The board of chosen freeholders
27 shall meet at the time and place designated in the notice to hear
28 remonstrances against its report, and shall revise the same as it
29 shall deem proper in view of the remonstrances, after which it shall
30 file the report with the clerk of the board of chosen freeholders, and
31 the assessments shall constitute liens upon the lands so assessed
32 for special benefits.

33 The clerk shall deliver a duplicate copy of such report to the
34 appropriate officer of the county, who shall immediately thereafter
35 send out by mail or deliver to owners of such lands bills for such
36 assessments. Such officer, shall mail or deliver a bill for an assess-
37 ment in the manner required in connection with local improvements
38 and shall keep a record and books of assessments in the same
39 manner required for local improvements under R. S. 40:56-31 at
40 the expense of the county. The board of chosen freeholders may
41 make additional requirements for recording, accounting for and
42 collecting assessments.

43 The board of chosen freeholders may by resolution provide that
44 the owner of any real estate upon which any assessments for any
45 improvement shall have been made may pay such assessments in
46 installments pursuant to the procedures contained in R. S.
47 40:56-35.

48 When any unpaid assessment, interest thereon or other charges
49 for collection thereof, remains in arrears on July 1, of the calendar
50 year following the calendar year when the same becomes in arrears,
51 the appropriate officer of the authority shall enforce the lien by
52 selling the property in the manner set forth in Chapter 5 of Title
53 54 of the Revised Statutes and supplements thereto.

1 9. A county may negotiate and enter into contracts with other
2 counties and with municipalities, hereafter known as "local govern-
3 ments," for the provision of flood control facilities pursuant to the
4 provisions of this act.

5 If a county, pursuant to a contract with any such local govern-
6 ment or governments shall construct or acquire flood control
7 facilities which will benefit such local government or governments
8 such county may either a. bear the entire cost of the construction
9 or acquisition of such facilities by itself: or, b. share the cost of the
10 construction or acquisition of such improvements with the local
11 government or governments. The county may issue its bonds for
12 all or part of the cost of the construction or acquisition of such
13 facilities. If the cost thereof is to be shared by such local govern-
14 ment or governments, the county may issue its bonds for its share
15 of such cost and such local government or governments may issue
16 their bonds for their share of such cost, or the county may issue
17 its bonds for all of the cost of such facilities, and the share of such
18 cost to be borne by such local government or governments, shall be
19 repaid to the county by such local government or governments in
20 annual installments over a period not exceeding 40 years as shall
21 be agreed upon between the county and such local government or
22 governments. The amount of said annual installments shall include
23 interest at such rate or rates as the county and such local govern-
24 ment or governments shall agree upon, and the county and such
25 local government or governments are hereby authorized to enter
26 into agreements relating to such facilities which agreements shall
27 have such terms and conditions as shall be deemed necessary and
28 proper by such county and such participating local government or
29 governments. Such agreements shall be authorized by a resolution
30 duly adopted by the board of chosen freeholders of the concerned
31 counties and by an ordinance duly adopted by the governing body
32 of such municipality or municipalities. Such annual payments

33 received by a county from such local government or governments
34 may also include an additional annual amount as shall be agreed
35 upon for the payment of the agreed share of the cost of operation
36 and maintenance and improvement or enlargement of such
37 facilities.

1 10. Any municipality with which a county is authorized to con-
2 tract under the terms and provisions of this act shall have power,
3 by ordinance duly adopted by its governing body to authorize
4 its proper officials to enter into and execute for it a contract, for
5 such periods of time and under such terms as are deemed proper
6 and necessary, with a county, for the provision of flood control
7 facilities notwithstanding that no appropriation was made or
8 provided to cover the estimated cost of such contract, and the
9 governing body of any such contracting municipality shall have
10 full power and authority to do and perform all acts and things
11 on the part of the municipality to be done and performed under
12 the terms and provisions of such contract.

1 11. Notwithstanding any restriction contained in any other law,
2 the State and all public officers, municipalities, counties, political
3 subdivisions and public bodies, and agencies thereof, all banks,
4 bankers, trust companies, savings banks and institutions, building
5 and loan associations, savings and banking businesses, all insurance
6 companies, insurance associations and other persons carrying on
7 any insurance business, and all executors, administrators, guard-
8 ians, trustees and other fiduciaries, may legally invest any sinking
9 fund moneys or other funds belonging to them or within their
10 control in any bonds of a county authorized pursuant to this act,
11 and such bonds are hereby made and shall be authorized security
12 for any and all public deposits. Any such bonds and the interest
13 thereon shall be exempt from taxation except for transfer and
14 inheritance taxes.

1 12. The chief fiscal officer of each municipality which shall have
2 entered into a contract pursuant to this act, shall cause to be
3 paid to the county with which such contract is in force, at such times
4 to be agreed upon, the amount of money certified to the munici-
5 pality by the county pursuant to this act. The power and obligation
6 of such municipality to provide for and make all such payments
7 shall be unlimited and the sums necessary for such payment shall
8 be included in each annual budget of such municipality; and such
9 municipality shall be irrevocably and unconditionally obligated
10 to levy ad valorem taxes on all taxable property therein, without
11 limit as to rate or amount to the full extent necessary to make all

12 such payments in full as the same become due. If any part of the
13 amount certified to a municipality by a county, pursuant to this
14 act, shall remain unpaid for 30 days following the date fixed for
15 payment by the contract, the municipality thus in default shall be
16 charged with and be liable for, and the chief fiscal officer thereof
17 shall pay to such county, interest upon the amount unpaid at the
18 rate of 8% per annum.

1 13. The object and design of this act being the protection and
2 preservation of public health, safety and welfare, this act shall be
3 liberally construed and the powers granted and the duties imposed
4 by this act shall be construed to be independent and severable. If
5 any one or more sections, clauses, sentences or parts of this act
6 shall for any reason be questioned in any court, and shall be
7 adjudged unconstitutional or invalid, such judgment shall not
8 affect, impair or invalidate the remaining provisions thereof, but
9 shall be confined in its operation to the specific provisions so held
10 unconstitutional or invalid.

1 14. R. S. 40:29-2 through R. S. 40:29-9, inclusive, are repealed.

1 15. This act shall take effect immediately.

STATEMENT

This bill enables counties to finance, acquire, construct and operate flood control facilities where such facilities contribute to the overall management of the surface water of the concerned river basin or subbasin. This is permissive legislation. The bill enables every county to protect its citizens from the adverse effects of uncontrolled storm water drainage and conditions of flooding. The county may finance the flood control facilities from the general revenues of the county or from direct assessments on the lands benefited from the facility. The county may enter into contracts with other counties and municipalities for the provision of flood control facilities and it may accept State or Federal aid for such purposes.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 25, 1978

ANNE BURNS

1976-27
Governor Brendan Byrne has signed the following bills into law:

A-23, sponsored by Assemblyman Daniel F. Newman, (D-Ocean), which requires corporations applying for certain subdivisions and variances to disclose all the names of stockholders or individual partners owning 10 per cent or more of this stock.

The disclosure will be required when corporation or partnerships apply for approval of subdivisions of six or more lots or for variances for multi-family housing of 25 or more units or for approval of a commercial development.

The legislation also imposes penalties of fines between \$1,000 and \$10,000 for failure to comply with the disclosure requirement.

S-3112, sponsored by Senator Bernard Dwyer, (D-Middlesex), which allows counties to finance, acquire, construct and operate flood control facilities.

The county may finance the flood control facilities from the general revenues of the county or from direct assessments on the lands benefited from the facility.

The legislation authorized the issuance of bonds financed by these revenues.

S-3416, sponsored by Senator James Cafiero, (R-Cape May), which permits certain corporations to make benefits available to their employees, through stock ownership plans, without shareholders' consent. These stock ownership plans must have been authorized by the Board of Public Utilities or must be subject to the disclosure and proxy requirements of the Federal Securities and Exchange Act of 1934.

The bill will bring New Jersey into conformity with current laws in neighboring states including New York, Pennsylvania and Delaware.

S-3484, sponsored by Senator Joseph P. Merlino (D-Mercer), which appropriates \$300,000 to increase the salaries of the Legislators' staffs.

Each legislator will be given an allotment of up to \$20,000. The staff allotment since 1974 has been \$15,000. The increase will be available only to members who hire at least one full-time staff member.

The legislation will become effective upon adoption of joint rules governing staff hiring.

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