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RH/CL

P.L. 2017, CHAPTER 290, *approved January 16, 2018*

Senate, No. 848

1 **AN ACT** concerning the budgets of regional sewerage authorities
2 and amending and supplementing P.L.1946, c.138.

3

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

6

7 1. (New section) a. Notwithstanding the provisions of any other
8 law to the contrary, the budget of every regional sewerage authority
9 created pursuant to the provisions of P.L.1946, c.138 (C.40:14A-1 et
10 seq.) shall be subject to the following provisions:

11 (1) (a) The percentage of growth in the fee-funded appropriations
12 in the annual budget of a regional sewerage authority shall not exceed
13 two percent per year; and the amount billed to customers of the
14 authority, or the amount billed to a local unit for its proportional share
15 of the authority's expenses, as the case may be, shall not exceed that
16 amount billed in the previous budget year to each customer or local
17 unit, as the case may be, by more than two percent for a similar
18 amount of use or service of the sewerage system.

19 (b) A regional sewerage authority may add to the allowable
20 growth in fee-funded appropriations in any one of the next three
21 succeeding years, the amount of the difference between the maximum
22 allowable increase in fee-funded appropriations for the current budget
23 year pursuant to subparagraph (a) of this paragraph and the actual
24 amount of fee-funded appropriations for the current budget year.

25 (2) The percentage of growth in the fee-funded appropriations in
26 the annual budget of a regional sewerage authority shall be determined
27 without consideration of any amounts appropriated by the authority
28 for:

29 (a) capital expenditures, including payment of principal or interest
30 on bonds authorized or issued pursuant to the "sewerage authorities
31 law," P.L.1946, c.138 (C.40:14A-1 et seq.);

32 (b) increases in pension contributions and accrued liability for
33 pension contributions in excess of two percent over those expenditures
34 for the previous budget year ;

35 (c) increases in health care costs equal to that portion of the actual
36 increase in total health costs for the budget year that is in excess of two
37 percent of total health care costs in the previous budget year, but is not
38 in excess of the product of the total health care costs in the prior year
39 and the average percentage increase of the State Health Benefits
40 Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually
41 determined by the Division of Pensions and Benefits in the
42 Department of the Treasury;

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 (d) increases in energy cost expenditures in excess of two percent
2 over those expenditures for the previous budget year;

3 (e) extraordinary costs that are directly related to an emergency;
4 and

5 (f) expenditures for the cost of services mandated by any order of
6 court, by any federal or State statute, or by administrative rule,
7 directive, order, or other legally binding device issued by a State
8 agency which identified the cost as a mandated expenditure on
9 certification to the Local Finance Board by the State agency.

10 (3) Notwithstanding the limitations imposed by paragraph (1) of
11 this section, a regional sewerage authority may apply to the Local
12 Finance Board for a waiver to increase its rents, rates, fees, and
13 charges to levels sufficient to compensate for loss of revenues due to
14 reductions in the use or service of the sewerage system.

15 As used this section, "emergency" shall mean any purpose which
16 is not foreseen at the time of the adoption of the annual budget, or for
17 which adequate provision was not made therein, to meet a pressing
18 need for public expenditure to protect or promote the public health,
19 safety, morals, or welfare.

20 b. After the budget of a regional sewerage authority has been
21 approved by the members of the regional sewerage authority, the
22 budget shall be forwarded to the Director of the Division of Local
23 Government Services for review and approval.

24 The director shall review the budget to ensure that the budget
25 conforms with the requirements of subsection a. of this section and the
26 "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1
27 et seq.), and that the budgeted expenditures are reasonable in cost and
28 necessary for the performance of the regional sewerage authority.

29 If the director determines that the budget meets the requirements of
30 this subsection, the director shall approve the budget. If the director
31 does not approve the budget, the director shall return the budget to the
32 members of the regional sewerage authority with written information
33 concerning the reasons for the disapproval of the budget.

34 To the extent that the provisions of subsection a. of this section
35 conflict with the provisions of the "Local Authorities Fiscal Control
36 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), subsection a. of this
37 section shall take precedence.

38
39 2. Section 35 of P.L.1946, c.138 (C.40:14A-35) is amended to
40 read as follows:

41 35. **[This act]** Except as provided in section 1 of P.L. _____,
42 c. (C.) (pending before the Legislature as this bill), P.L.1946,
43 c.138 , (C.40:14A-1 et seq.) shall be construed liberally to effectuate
44 the legislative intent and as complete and independent authority for the
45 performance of each and every act and thing herein authorized, and a
46 sewerage authority shall not be subject to regulation as to its service
47 charges or as to any other matter whatsoever by any officer, board,
48 agency, commission or other office of the State.

49 (cf: P.L.1946, c.138, s.35)

1 3. This act shall take effect immediately and shall be applicable to
2 the next budget year following enactment.

3

4

5

6

7 Requires certain State oversight of budgets of regional sewerage
8 authorities.

SENATE, No. 848

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator Beck

SYNOPSIS

Requires certain State oversight of budgets of regional sewerage authorities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the budgets of regional sewerage authorities
2 and amending and supplementing P.L.1946, c.138.

3

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

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7 1. (New section) a. Notwithstanding the provisions of any other
8 law to the contrary, the budget of every regional sewerage authority
9 created pursuant to the provisions of P.L.1946, c.138 (C.40:14A-1 et
10 seq.) shall be subject to the following provisions:

11 (1) (a) The percentage of growth in the fee-funded appropriations
12 in the annual budget of a regional sewerage authority shall not exceed
13 two percent per year; and the amount billed to customers of the
14 authority, or the amount billed to a local unit for its proportional share
15 of the authority's expenses, as the case may be, shall not exceed that
16 amount billed in the previous budget year to each customer or local
17 unit, as the case may be, by more than two percent for a similar
18 amount of use or service of the sewerage system.

19 (b) A regional sewerage authority may add to the allowable
20 growth in fee-funded appropriations in any one of the next three
21 succeeding years, the amount of the difference between the maximum
22 allowable increase in fee-funded appropriations for the current budget
23 year pursuant to subparagraph (a) of this paragraph and the actual
24 amount of fee-funded appropriations for the current budget year.

25 (2) The percentage of growth in the fee-funded appropriations in
26 the annual budget of a regional sewerage authority shall be determined
27 without consideration of any amounts appropriated by the authority
28 for:

29 (a) capital expenditures, including payment of principal or interest
30 on bonds authorized or issued pursuant to the "sewerage authorities
31 law," P.L.1946, c.138 (C.40:14A-1 et seq.);

32 (b) increases in pension contributions and accrued liability for
33 pension contributions in excess of two percent over those expenditures
34 for the previous budget year ;

35 (c) increases in health care costs equal to that portion of the actual
36 increase in total health costs for the budget year that is in excess of two
37 percent of total health care costs in the previous budget year, but is not
38 in excess of the product of the total health care costs in the prior year
39 and the average percentage increase of the State Health Benefits
40 Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually
41 determined by the Division of Pensions and Benefits in the
42 Department of the Treasury;

43 (d) increases in energy cost expenditures in excess of two percent
44 over those expenditures for the previous budget year;

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 (e) extraordinary costs that are directly related to an emergency;
2 and

3 (f) expenditures for the cost of services mandated by any order of
4 court, by any federal or State statute, or by administrative rule,
5 directive, order, or other legally binding device issued by a State
6 agency which identified the cost as a mandated expenditure on
7 certification to the Local Finance Board by the State agency.

8 (3) Notwithstanding the limitations imposed by paragraph (1) of
9 this section, a regional sewerage authority may apply to the Local
10 Finance Board for a waiver to increase its rents, rates, fees, and
11 charges to levels sufficient to compensate for loss of revenues due to
12 reductions in the use or service of the sewerage system.

13 As used this section, "emergency" shall mean any purpose which
14 is not foreseen at the time of the adoption of the annual budget, or for
15 which adequate provision was not made therein, to meet a pressing
16 need for public expenditure to protect or promote the public health,
17 safety, morals, or welfare.

18 b. After the budget of a regional sewerage authority has been
19 approved by the members of the regional sewerage authority, the
20 budget shall be forwarded to the Director of the Division of Local
21 Government Services for review and approval.

22 The director shall review the budget to ensure that the budget
23 conforms with the requirements of subsection a. of this section and the
24 "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1
25 et seq.), and that the budgeted expenditures are reasonable in cost and
26 necessary for the performance of the regional sewerage authority.

27 If the director determines that the budget meets the requirements of
28 this subsection, the director shall approve the budget. If the director
29 does not approve the budget, the director shall return the budget to the
30 members of the regional sewerage authority with written information
31 concerning the reasons for the disapproval of the budget.

32 To the extent that the provisions of subsection a. of this section
33 conflict with the provisions of the "Local Authorities Fiscal Control
34 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), subsection a. of this
35 section shall take precedence.

36
37 2. Section 35 of P.L.1946, c.138 (C.40:14A-35) is amended to
38 read as follows:

39 35. **【This act】** Except as provided in section 1 of P.L. _____,
40 c. (C.) (pending before the Legislature as this bill), P.L.1946,
41 c.138 , (C.40:14A-1 et seq.) shall be construed liberally to effectuate
42 the legislative intent and as complete and independent authority for the
43 performance of each and every act and thing herein authorized, and a
44 sewerage authority shall not be subject to regulation as to its service
45 charges or as to any other matter whatsoever by any officer, board,
46 agency, commission or other office of the State.
47 (cf: P.L.1946, c.138, s.35)

1 3. This act shall take effect immediately and shall be applicable to
2 the next budget year following enactment.

3
4
5 STATEMENT

6
7 This bill provides for State oversight of annual budgets of
8 regional sewerage authorities created pursuant to the “sewerage
9 authorities law,” P.L.1946, c.138 (C.40:14A-1 et seq.), by imposing
10 certain limits on the growth of fee-funded appropriations in the
11 annual budgets of authorities (and on increases in the amounts
12 permitted to be billed to customers) and by requiring the review and
13 approval of the annual budgets of authorities by the Director of the
14 Division of Local Government Services.

15 *Limits on Percentage of Growth and Amounts Billed to*
16 *Customers.* The bill limits the percentage of growth in the fee-
17 funded appropriations in the annual budget of a regional sewerage
18 authority to not more than two percent per year, and stipulates that
19 the amount billed to customers of the authority, or the amount billed
20 to a local unit for its proportional share of the authority’s expenses,
21 is not permitted to exceed that amount billed in the previous budget
22 year to each customer or local unit by more than two percent for
23 comparable usage of the sewerage system. The bill provides that
24 the limits imposed on the percentage of growth in the fee-funded
25 appropriations in the annual budget of an authority are required to
26 be determined without taking into consideration any amounts
27 appropriated by the authority for: the payment of principal or
28 interest on bonds issued under the “sewerage authorities law”;
29 increases in pension and health care costs greater than two percent
30 over the previous budget year; increases in energy costs greater than
31 two percent over those expenditures for the previous budget year;
32 and expenditures for costs mandated by federal and State law,
33 administrative rules, and legal directives.

34 Additionally, the bill provides that the limits on the percentage
35 of growth in the fee-funded appropriations and the amounts
36 permitted to be billed to customers do not apply when an authority
37 has incurred extraordinary costs directly related to an emergency.
38 The bill defines an emergency as any purpose which is not foreseen
39 at the time of the adoption of the annual budget, or for which
40 adequate provision was not made therein, to meet a pressing need
41 for public expenditure to protect or promote the public health,
42 safety, or welfare. The bill permits an authority to seek a cap waiver
43 from the Local Finance Board when its revenue declines due to
44 reductions in the use of the sewerage system, and also allows the
45 authority to “bank” any unused cap growth for use in any one of the
46 next three succeeding budget years.

47 *Review and Approval of Annual Budgets by Director of DLGS.*
48 The bill provides that after the budget of a regional sewerage

S848 STACK, OROHO

1 authority is approved by the members of the authority, the budget
2 must be forwarded to the Director of the Division of Local
3 Government Services for review and approval. The bill requires the
4 director to review the budget to ensure that budgeted expenditures
5 for the authority meet the requirements of the bill, and the “Local
6 Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et
7 seq.), are reasonable in cost and necessary for the performance of
8 the authority. If the director does not approve the budget, the bill
9 provides for the director to return the budget to the authority’s
10 members with written information concerning the reasons for
11 disapproval.

12 The bill takes effect immediately and is applicable to the next
13 budget year following enactment.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 848

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2016

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Bill No. 848

This bill provides for State oversight of annual budgets of regional sewerage authorities created pursuant to the “sewerage authorities law,” P.L.1946, c.138 (C.40:14A-1 et seq.), by imposing certain limits on the growth of fee-funded appropriations in the annual budgets of authorities (and on increases in the amounts permitted to be billed to customers) and by requiring the review and approval of the annual budgets of authorities by the Director of the Division of Local Government Services.

Limits on Percentage of Growth and Amounts Billed to Customers.

The bill limits the percentage of growth in the fee-funded appropriations in the annual budget of a regional sewerage authority to not more than two percent per year, and provides that the amount billed to customers of the authority, or the amount billed to a local unit for its proportional share of the authority’s expenses, is not permitted to exceed that amount billed in the previous budget year to each customer or local unit by more than two percent for comparable usage of the sewerage system. The bill provides that the limits imposed on the percentage of growth in the fee-funded appropriations in the annual budget of an authority are required to be determined without taking into consideration any amounts appropriated by the authority for: the payment of principal or interest on bonds issued under the “sewerage authorities law”; increases in pension and health care costs greater than two percent over the previous budget year; increases in energy costs greater than two percent over those expenditures for the previous budget year; and expenditures for costs mandated by federal and State law, administrative rules, and legal directives.

Additionally, the bill provides that the limits on the percentage of growth in the fee-funded appropriations and the amounts permitted to be billed to customers do not apply when an authority has incurred extraordinary costs directly related to an emergency. The bill defines an emergency as any purpose which is not foreseen at the time of the adoption of the annual budget, or for which adequate provision was not made therein, to meet a pressing need for public expenditure to

protect or promote the public health, safety, or welfare. The bill permits an authority to seek a cap waiver from the Local Finance Board when its revenue declines due to reductions in the use of the sewerage system, and also allows the authority to “bank” any unused cap growth for use in any one of the next three succeeding budget years.

Review and Approval of Annual Budgets by Director of DLGS.

The bill provides that after the budget of a regional sewerage authority is approved by the members of the authority, the budget must be forwarded to the Director of the Division of Local Government Services for review and approval. The bill requires the director to review the budget to ensure that budgeted expenditures for the authority meet the requirements of the bill, and the “Local Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.), are reasonable in cost and necessary for the performance of the authority. If the director does not approve the budget, the bill provides for the director to return the budget to the authority’s members with written information concerning the reasons for disapproval.

The bill takes effect immediately and is applicable to the next budget year following enactment.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 848

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 848.

This bill provides for State oversight of annual budgets of regional sewerage authorities created pursuant to the “sewerage authorities law,” P.L.1946, c.138 (C.40:14A-1 et seq.), by imposing certain limits on the growth of fee-funded appropriations in the annual budgets of authorities (and on increases in the amounts permitted to be billed to customers) and by requiring the review and approval of the annual budgets of authorities by the Director of the Division of Local Government Services.

Limits on Percentage of Growth and Amounts Billed to Customers.

The bill limits the percentage of growth in the fee-funded appropriations in the annual budget of a regional sewerage authority to not more than two percent per year, and provides that the amount billed to customers of the authority, or the amount billed to a local unit for its proportional share of the authority’s expenses, is not permitted to exceed that amount billed in the previous budget year to each customer or local unit by more than two percent for comparable usage of the sewerage system. The bill provides that the limits imposed on the percentage of growth in the fee-funded appropriations in the annual budget of an authority are required to be determined without taking into consideration any amounts appropriated by the authority for: the payment of principal or interest on bonds issued under the “sewerage authorities law”; increases in pension and health care costs greater than two percent over the previous budget year; increases in energy costs greater than two percent over those expenditures for the previous budget year; and expenditures for costs mandated by federal and State law, administrative rules, and legal directives.

Additionally, the bill provides that the limits on the percentage of growth in the fee-funded appropriations and the amounts permitted to be billed to customers do not apply when an authority has incurred extraordinary costs directly related to an emergency. The bill defines an emergency as any purpose which is not foreseen at the time of the adoption of the annual budget, or for which adequate provision was not made therein, to meet a pressing need for public expenditure to protect or promote the public health, safety, or welfare. The bill permits an authority to seek a cap waiver from the Local Finance

Board when its revenue declines due to reductions in the use of the sewerage system, and also allows the authority to “bank” any unused cap growth for use in any one of the next three succeeding budget years.

Review and Approval of Annual Budgets by Director of DLGS.

The bill provides that after the budget of a regional sewerage authority is approved by the members of the authority, the budget must be forwarded to the Director of the Division of Local Government Services for review and approval. The bill requires the director to review the budget to ensure that budgeted expenditures for the authority meet the requirements of the bill, and the “Local Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.), are reasonable in cost and necessary for the performance of the authority. If the director does not approve the budget, the bill provides for the director to return the budget to the authority’s members with written information concerning the reasons for disapproval.

The bill takes effect immediately and is applicable to the next budget year following enactment.

FISCAL IMPACT:

The Office of Legislative Services notes that this bill may result in a minimal increase in State costs and indeterminate potential decrease in local expenditures and revenues. Revenues and expenditures of regional sewerage authorities may be lower than they otherwise would be due to the imposition of spending and revenue limitations. Local government entities that are members of an authority would potentially realize reduced costs because the bill limits the amount by which their share of authority expenses could increase. Sufficient data with which to quantify these impacts is unavailable at this time.

The Division of Local Government Services (DLGS) already employs staff to review budgets of local government entities subject to the “Local Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.). Under the bill, the DLGS is responsible for verifying that the rate of authority spending and customer billing falls within the two percent cap. The DLGS should be able to perform these budget reviews with existing staff and office resources. It is not clear how much existing staff time would need to be dedicated to these additional review activities.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 848
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: DECEMBER 12, 2017

SUMMARY

Synopsis: Requires certain State oversight of budgets of regional sewerage authorities.

Type of Impact: Increase in State costs.
Indeterminate impact on local finances.

Agencies Affected: Division of Local Government Services (Community Affairs), regional sewerage authorities, and local government entities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Minimal Potential Increase – See comments below		
Local Cost	Indeterminate Potential Decrease – See comments below		
Local Revenue	Indeterminate Potential Decrease – See comments below		

- The Office of Legislative Services (OLS) concludes that the enactment of this bill may cause revenues and expenditures of regional sewerage authorities to be lower than they otherwise would be due to the imposition of spending and revenue limitations. Sufficient data with which to quantify the potential impacts of these limitations is unavailable.
- Local government entities that are members of a regional sewerage authority would potentially realize reduced costs because the bill limits the amount by which their share of authority expenses could increase.
- The Division of Local Government Services (DLGS) is already required to review and approve the budgets of all local authorities. The bill requires the DLGS to verify that the rate of authority spending and customer billing remains within the two percent annual cap. The DLGS should be able to perform these budget reviews with existing staff and office resources.

BILL DESCRIPTION

Senate Bill No. 848 of 2016 provides for State oversight of annual budgets of regional sewerage authorities created pursuant to the “sewerage authorities law,” P.L.1946, c.138 (C.40:14A-1 et seq.), by imposing certain limits on the growth of fee-funded appropriations in the annual budgets of authorities (and on increases on the amounts permitted to be billed to customers) and by requiring the review and approval of the annual budgets of regional sewerage authorities by the DLGS to ensure compliance with the restrictions on increases in fee-funded appropriations established by the bill.

Limits on Percentage of Growth and Amounts Billed to Customers

The bill limits the percentage of growth in the fee-funded appropriations in the annual budget of a regional sewerage authority to not more than two percent per year, and provides that the amount billed to customers of the authority, or the amount billed to a local unit for its proportional share of the authority’s expenses, is not permitted to exceed that amount billed in the previous budget year to each customer or local unit by more than two percent for comparable usage of the sewerage system. The bill provides that the limits imposed on the percentage of growth in the fee-funded appropriations in the annual budget of an authority are required to be determined without taking into consideration any amounts appropriated by the authority for: the payment of principal and interest on bonds issued pursuant to the “sewerage authorities law”; increases in pension and health care costs greater than two percent over the previous budget year; increases in energy costs greater than two percent over those expenditures for the previous budget year; and expenditures for costs mandated by federal and State law, administrative rules, and legal directives.

Additionally, the bill provides that the limits on the percentage growth in the fee-funded appropriations and the amounts permitted to be billed to customers do not apply when an authority has incurred extraordinary costs directly related to an emergency. The bill defines an emergency as any purpose which is not foreseen at the time of the adoption of the annual budget, or for which adequate provision was not made therein to meet a pressing need for public expenditure to protect or promote the public health, safety, or welfare. The bill permits a regional sewerage to seek a cap waiver from the Local Finance Board when its revenue declines due to reductions in the use of the sewerage system, and also allows the authority to “bank” any unused cap growth for use in any one of the next three succeeding budget years.

Review and Approval of Annual Budgets by the Director of DLGS

The bill also provides that after the budget of a regional sewerage authority is approved by the members of the authority, it must be forwarded to the DLGS Director for review and approval. The bill requires the director to review the budget to ensure that budgeted expenditures for the authority to meet the requirements of the bill, and the “Local Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.), are reasonable in cost and necessary for the performance of the authority. If the director does not approve the budget, the bill provides for the director to return the budget to the authority’s members with information concerning the reasons for disapproval.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that the restrictions on increases in regional sewerage authority fee-funded appropriations, and the amounts billed to regional sewerage authority customers and local units which are members of a regional sewerage authority, may result in smaller user fee increases than would otherwise occur under existing law, by indeterminate amounts. Regional sewerage authorities will potentially spend less and raise less revenue from users as a result of the limitations imposed by the bill. Municipalities that are members of regional sewerage authorities would be impacted by this bill because they are limited to the two percent cap on their share of authority costs. The degree of impact is indeterminate because it is not clear how much each of the authorities would increase rates if not subject to the two percent cap proposed by the bill.

The OLS notes that regional sewerage authority budget decisions that determine annual changes in user fees are affected by multiple factors, such as changes in sewerage flow levels, the authority's customer base, the provisions of labor contracts, costs of goods and services, levels of non-user fee revenues, and debt service requirements. It is reasonable to conclude that a reduction in the amount by which fee-funded appropriations are permitted to increase from year-to-year may comprise restraints on annual user fee increases, but it is not feasible to estimate the degree to which this is the case, or to quantify the amount by which fee-funded appropriations, and the amount billed to customers and members of the authority, will be lower due to the effect of the new cap and the provisions permitting the use of "cap banking."

Under the bill, the DLGS is responsible for reviewing the budget of each regional sewerage authority, ensuring that the fee-funded appropriations of the authority do not increase by more than two percent per year, that the assessment on customers or local units does not increase by more than two percent in a given year, subject to certain exceptions (e.g., debt service and limited increases in pension and health care costs). The OLS notes that the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) already requires DCA to annually review the budgets of all local authorities. The analytic task of determining whether budget appropriations or billed rates increase by more than two percent in a given year may be accomplished with existing DLGS staff and office resources.

There are eleven regional sewerage authorities that could be affected by Senate Bill No. 848: Atlantic Highlands-Highland Regional Sewerage Authority, Bayshore Regional Sewerage Authority, Manasquan River Regional Sewerage Authority, North Hudson Regional Sewerage Authority, Pequannock River Basin Regional Sewerage Authority, Plainfield Regional Sewerage Authority, Rockaway Valley Regional Sewerage Authority, Somerset-Raritan Regional Sewerage Authority, Southern Monmouth County Regional Sewerage Authority, Stony Brook Regional Sewerage Authority, and the Wanaque Valley Regional Sewerage Authority.

Section: Local Government

*Analyst: Scott A. Brodsky
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 5339

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED DECEMBER 20, 2017

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

SYNOPSIS

Requires certain State oversight of budgets of regional sewerage authorities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the budgets of regional sewerage authorities
2 and amending and supplementing P.L.1946, c.138.

3

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

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7 1. (New section) a. Notwithstanding the provisions of any other
8 law to the contrary, the budget of every regional sewerage authority
9 created pursuant to the provisions of P.L.1946, c.138 (C.40:14A-1 et
10 seq.) shall be subject to the following provisions:

11 (1) (a) The percentage of growth in the fee-funded appropriations
12 in the annual budget of a regional sewerage authority shall not exceed
13 two percent per year; and the amount billed to customers of the
14 authority, or the amount billed to a local unit for its proportional share
15 of the authority's expenses, as the case may be, shall not exceed that
16 amount billed in the previous budget year to each customer or local
17 unit, as the case may be, by more than two percent for a similar
18 amount of use or service of the sewerage system.

19 (b) A regional sewerage authority may add to the allowable
20 growth in fee-funded appropriations in any one of the next three
21 succeeding years, the amount of the difference between the maximum
22 allowable increase in fee-funded appropriations for the current budget
23 year pursuant to subparagraph (a) of this paragraph and the actual
24 amount of fee-funded appropriations for the current budget year.

25 (2) The percentage of growth in the fee-funded appropriations in
26 the annual budget of a regional sewerage authority shall be determined
27 without consideration of any amounts appropriated by the authority
28 for:

29 (a) capital expenditures, including payment of principal or interest
30 on bonds authorized or issued pursuant to the "sewerage authorities
31 law," P.L.1946, c.138 (C.40:14A-1 et seq.);

32 (b) increases in pension contributions and accrued liability for
33 pension contributions in excess of two percent over those expenditures
34 for the previous budget year ;

35 (c) increases in health care costs equal to that portion of the actual
36 increase in total health costs for the budget year that is in excess of two
37 percent of total health care costs in the previous budget year, but is not
38 in excess of the product of the total health care costs in the prior year
39 and the average percentage increase of the State Health Benefits
40 Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually
41 determined by the Division of Pensions and Benefits in the
42 Department of the Treasury;

43 (d) increases in energy cost expenditures in excess of two percent
44 over those expenditures for the previous budget year;

45 (e) extraordinary costs that are directly related to an emergency;
46 and

47 (f) expenditures for the cost of services mandated by any order of
48 court, by any federal or State statute, or by administrative rule,

1 directive, order, or other legally binding device issued by a State
2 agency which identified the cost as a mandated expenditure on
3 certification to the Local Finance Board by the State agency.

4 (3) Notwithstanding the limitations imposed by paragraph (1) of
5 this section, a regional sewerage authority may apply to the Local
6 Finance Board for a waiver to increase its rents, rates, fees, and
7 charges to levels sufficient to compensate for loss of revenues due to
8 reductions in the use or service of the sewerage system.

9 As used this section, "emergency" shall mean any purpose which
10 is not foreseen at the time of the adoption of the annual budget, or for
11 which adequate provision was not made therein, to meet a pressing
12 need for public expenditure to protect or promote the public health,
13 safety, morals, or welfare.

14 b. After the budget of a regional sewerage authority has been
15 approved by the members of the regional sewerage authority, the
16 budget shall be forwarded to the Director of the Division of Local
17 Government Services for review and approval.

18 The director shall review the budget to ensure that the budget
19 conforms with the requirements of subsection a. of this section and the
20 "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1
21 et seq.), and that the budgeted expenditures are reasonable in cost and
22 necessary for the performance of the regional sewerage authority.

23 If the director determines that the budget meets the requirements of
24 this subsection, the director shall approve the budget. If the director
25 does not approve the budget, the director shall return the budget to the
26 members of the regional sewerage authority with written information
27 concerning the reasons for the disapproval of the budget.

28 To the extent that the provisions of subsection a. of this section
29 conflict with the provisions of the "Local Authorities Fiscal Control
30 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), subsection a. of this
31 section shall take precedence.

32

33 2. Section 35 of P.L.1946, c.138 (C.40:14A-35) is amended to
34 read as follows:

35 35. **[This act]** Except as provided in section 1 of P.L. _____,
36 c. (C.) (pending before the Legislature as this bill), P.L.1946,
37 c.138 , (C.40:14A-1 et seq.) shall be construed liberally to effectuate
38 the legislative intent and as complete and independent authority for the
39 performance of each and every act and thing herein authorized, and a
40 sewerage authority shall not be subject to regulation as to its service
41 charges or as to any other matter whatsoever by any officer, board,
42 agency, commission or other office of the State.

43 (cf: P.L.1946, c.138, s.35)

44

45 3. This act shall take effect immediately and shall be applicable to
46 the next budget year following enactment.

STATEMENT

1
2
3 This bill provides for State oversight of annual budgets of regional
4 sewerage authorities created pursuant to the “sewerage authorities
5 law,” P.L.1946, c.138 (C.40:14A-1 et seq.), by imposing certain limits
6 on the growth of fee-funded appropriations in the annual budgets of
7 authorities (and on increases in the amounts permitted to be billed to
8 customers) and by requiring the review and approval of the annual
9 budgets of authorities by the Director of the Division of Local
10 Government Services.

11
12 *Limits on Percentage of Growth and Amounts Billed to Customers.*

13 The bill limits the percentage of growth in the fee-funded
14 appropriations in the annual budget of a regional sewerage authority to
15 not more than two percent per year, and provides that the amount
16 billed to customers of the authority, or the amount billed to a local unit
17 for its proportional share of the authority’s expenses, is not permitted
18 to exceed that amount billed in the previous budget year to each
19 customer or local unit by more than two percent for comparable usage
20 of the sewerage system. The bill provides that the limits imposed on
21 the percentage of growth in the fee-funded appropriations in the annual
22 budget of an authority are required to be determined without taking
23 into consideration any amounts appropriated by the authority for: the
24 payment of principal or interest on bonds issued under the “sewerage
25 authorities law”; increases in pension and health care costs greater than
26 two percent over the previous budget year; increases in energy costs
27 greater than two percent over those expenditures for the previous
28 budget year; and expenditures for costs mandated by federal and State
29 law, administrative rules, and legal directives.

30 Additionally, the bill provides that the limits on the percentage of
31 growth in the fee-funded appropriations and the amounts permitted to
32 be billed to customers do not apply when an authority has incurred
33 extraordinary costs directly related to an emergency. The bill defines
34 an emergency as any purpose which is not foreseen at the time of the
35 adoption of the annual budget, or for which adequate provision was
36 not made therein, to meet a pressing need for public expenditure to
37 protect or promote the public health, safety, or welfare. The bill
38 permits an authority to seek a cap waiver from the Local Finance
39 Board when its revenue declines due to reductions in the use of the
40 sewerage system, and also allows the authority to “bank” any unused
41 cap growth for use in any one of the next three succeeding budget
42 years.

43
44 *Review and Approval of Annual Budgets by Director of DLGS.*

45 The bill provides that after the budget of a regional sewerage
46 authority is approved by the members of the authority, the budget must
47 be forwarded to the Director of the Division of Local Government
48 Services for review and approval. The bill requires the director to

A5339 MUKHERJI, CHAPARRO

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1 review the budget to ensure that budgeted expenditures for the
2 authority meet the requirements of the bill, and the “Local Authorities
3 Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.), are
4 reasonable in cost and necessary for the performance of the authority.
5 If the director does not approve the budget, the bill provides for the
6 director to return the budget to the authority’s members with written
7 information concerning the reasons for disapproval.

8 The bill takes effect immediately and is applicable to the next
9 budget year following enactment.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5339
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JANUARY 9, 2018

SUMMARY

- Synopsis:** Requires certain State oversight of budgets of regional sewerage authorities.
- Type of Impact:** Increase in State costs.
Indeterminate impact on local finances.
- Agencies Affected:** Division of Local Government Services (Community Affairs), regional sewerage authorities, and local government entities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Minimal Potential Increase – See comments below		
Local Cost	Indeterminate Potential Increase – See comments below		
Local Revenue	Indeterminate Potential Increase – See comments below		

- The Office of Legislative Services (OLS) concludes that the enactment of this bill may cause revenues and expenditures of regional sewerage authorities to be lower than they otherwise would be due to the imposition of spending and revenue limitations. Sufficient data with which to quantify the potential impacts of these limitations is unavailable.
- Local government entities that are members of a regional sewerage authority would potentially realize reduced costs because the bill limits the amount by which their share of authority expenses could increase.

The Division of Local Government Services (DLGS) is already required to review and approve the budgets of all local authorities. The bill requires the DLGS to verify that the rate of authority spending and customer billing remains within the two percent annual cap. The DLGS should be able to perform these budget reviews with existing staff and office resources.

BILL DESCRIPTION

This bill provides for State oversight of annual budgets of regional sewerage authorities created pursuant to the “sewerage authorities law,” P.L.1946, c.138 (C.40:14A-1 et seq.), by

imposing certain limits on the growth of fee-funded appropriations in the annual budgets of authorities (and on increases on the amounts permitted to be billed to customers) and by requiring the review and approval of the annual budgets of regional sewerage authorities by the Director of the Division of Local Government Services (DLGS) to ensure compliance with the restrictions on increases in fee-funded appropriations established by the bill.

Limits on Percentage of Growth and Amounts Billed to Customers

The bill limits the percentage of growth in the fee-funded appropriations in the annual budget of a regional sewerage authority to not more than two percent per year, and provides that the amount billed to customers of the authority, or the amount billed to a local unit for its proportional share of the authority's expenses, is not permitted to exceed that amount billed in the previous budget year to each customer or local unit by more than two percent for comparable usage of the sewerage system. The bill provides that the limits imposed on the percentage of growth in the fee-funded appropriations in the annual budget of an authority are required to be determined without taking into consideration any amounts appropriated by the authority for: the payment of principal and interest on bonds issued pursuant to the "sewerage authorities law"; increases in pension and health care costs greater than two percent over the previous budget year; increases in energy costs greater than two percent over those expenditures for the previous budget year; and expenditures for costs mandated by federal and State law, administrative rules, and legal directives.

Additionally, the bill provides that the limits on the percentage growth in the fee-funded appropriations and the amounts permitted to be billed to customers do not apply when an authority has incurred extraordinary costs directly related to a declared emergency. The bill defines an emergency as any purpose which is not foreseen at the time of the adoption of the annual budget, or for which adequate provision was not made therein to meet a pressing need for public expenditure to protect or promote the public health, safety, or welfare. The bill permits a regional sewerage to seek a cap waiver from the Local Finance Board when its revenue declines due to reductions in the use of the sewerage system, and also allows the authority to "bank" any unused cap growth for use in any one of the next three succeeding budget years.

Review and Approval of Annual Budgets by the Director of DLGS

The bill also provides that after the budget of a regional sewerage authority is approved by the members of the authority, it must be forwarded to the DLGS Director for review and approval. The bill requires the director to review the budget to ensure that budgeted expenditures for the authority to meet the requirements of the bill, and the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), are reasonable in cost and necessary for the performance of the authority. If the director does not approve the budget, the bill provides for the director to return the budget to the authority's members with information concerning the reasons for disapproval.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the restrictions on increases in regional sewerage authority fee-funded appropriations, and the amounts billed to regional sewerage authority customers and local units which are members of a regional sewerage authority, may result in lower user fee increases than would otherwise occur under existing law, by indeterminate amounts. Regional sewerage authorities will potentially spend less and raise less revenue from users as a result of the limitations imposed by the bill. Municipalities that are members of regional sewerage authorities would be impacted by this bill because they are limited to the two percent cap on their share of authority costs. The amount of the benefit they would receive cannot be known because it is not clear how much each of the authorities would increase rates if not subject to the two percent cap proposed by the bill.

The OLS notes that regional sewerage authority budget decisions that determine annual changes in user fees are affected by multiple factors, such as changes in sewerage flow levels, the authority's customer base, the provisions of labor contracts, costs of goods and services, levels of non-user fee revenues, and debt service requirements. It is reasonable to conclude that a reduction in the amount by which fee-funded appropriations are permitted to increase from year-to-year may comprise restraints on annual user fee increases, but it is not feasible to estimate the degree to which this is the case, or to quantify the amount by which fee-funded appropriations, and the amount billed to customers and members of the authority, will be lower due to the effect of the new cap and the provisions permitting the use of "cap banking."

Under the bill, the DLGS is responsible for reviewing the budget of each regional sewerage authority, ensuring that the fee-funded appropriations of the authority do not increase by more than two percent per year, that the assessment on customers or local units does not increase by more than two percent in a given year, subject to certain exceptions (e.g., debt service and limited increases in pension and health care costs). The OLS notes that the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) already requires DCA to annually review the budgets of all local authorities. The analytic task of determining whether budget expenditures or billed rates increase by more than two percent in a given year may be accomplished with existing DLGS staff and office resources.

There are eleven regional sewerage authorities that could be affected by this bill. They are the: Atlantic Highlands-Highland Regional Sewerage Authority, Bayshore Regional Sewerage Authority, Manasquan River Regional Sewerage Authority, North Hudson Regional Sewerage Authority, Pequannock River Basin Regional Sewerage Authority, Plainfield Regional Sewerage Authority, Rockaway Valley Regional Sewerage Authority, Somerset-Raritan Regional Sewerage Authority, Southern Monmouth County Regional Sewerage Authority, Stony Brook Regional Sewerage Authority, and the Wanaque Valley Regional Sewerage Authority.

Section: Local Government
Analyst: Scott A. Brodsky
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).