

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes 5/3/2018
12/11/2018
2/5/2019

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

NO, NJ RESIDENTS WON'T PAY 'RAIN TAX' - BUT THERE MAY BE FEES TO UPGRADE STORMWATER SYSTEMS TO SOLVE THE STATE'S RUNOFF PROBLEMS
Record, The (Hackensack, NJ) - February 6, 2019

No, NJ residents won't pay a 'rain tax.' But there may be fees to solve runoff problems
northjersey.com (Published as northjersey.com (NJ)) - February 6, 2019

New law lets towns create, finance local stormwater utilities
NJBIZ (New Brunswick, NJ) - March 18, 2019

NJ bill derided as a 'rain tax' is law. Here's what it really is and who will pay.
northjersey.com (Published as northjersey.com (NJ)) - March 18, 2019

NJ bill derided as a 'rain tax' is law. Here's what it really is and who's paying for it
northjersey.com (Published as northjersey.com (NJ)) - March 18, 2019

WHAT IS 'RAIN TAX' -- AND WHO PAYS? - PROPERTY OWNERS MAY SEE FEES GO TO STORMWATER FIXES
Record, The (Hackensack, NJ) - March 19, 2019

Controversial NJ 'rain tax' bill now law
Jersey Journal, The (Jersey City, NJ) - March 19, 2019

State's new 'rain tax' law OKs stormwater utilities
South Jersey Times (NJ) - March 19, 2019

Murphy signs law that foes dub a 'rain tax' Stormwater
Star-Ledger, The (Newark, NJ) - March 19, 2019

Controversial 'rain tax' bill has been signed into law
Times, The (Trenton, NJ) - March 19, 2019

RWH/JA

Title 40A.
Chapter 26B.
(New)
Stormwater
Utilities
§§ 1-18 -
C.40A:26B-1 to
40A:26B-18
§23 - Note

P.L. 2019, CHAPTER 42, *approved March 18, 2019*
Senate Committee Substitute (*Second Reprint*) for
Senate, No. 1073

1 **AN ACT** concerning stormwater utilities, supplementing Title 40A
2 of the New Jersey Statutes, and amending various parts of the
3 statutory law.

4

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

7

8 1. (New section) Sections 1 through ²**[17]** 18² of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) shall be
10 known and may be cited as the “Clean Stormwater and Flood
11 Reduction Act.”

12

13 2. (New section) a. The Legislature finds and declares that:

14 (1) The State of New Jersey faces an extensive set of problems
15 due to inadequate stormwater infrastructure and management, and
16 these problems directly affect the health, safety, economic well-
17 being, and quality of life of New Jersey residents.

18 (2) When storms occur, rainwater runs off of impervious
19 surfaces such as roads, roofs, and parking lots, and into stormwater
20 management systems and waterways. This stormwater carries with
21 it oil, pesticides, other chemicals, sediments, and bacteria that may
22 contaminate State waters, potentially making them unsafe for
23 drinking, fishing, and recreational purposes. It is estimated that up
24 to 60 percent of the State’s existing water pollution is attributable to
25 stormwater and nonpoint sources of pollution.

26 (3) Additionally, if a stormwater management system is not in
27 place or is not able to adequately absorb, capture, or convey
28 stormwater, then runoff in large volume and force may cause
29 flooding and damage to homes, businesses, and property. A
30 projected increase in sea level rise and more frequent and severe
31 storms are expected to only increase flooding.

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 18, 2018.

²Assembly AAP committee amendments adopted January 28, 2019.

1 (4) New Jersey, in particular, is prone to pollution and flooding
2 problems, with over 10 percent of its land area covered with
3 impervious surfaces. These problems are particularly acute in the
4 21 urban New Jersey municipalities that have combined sewer
5 systems, which routinely overflow and discharge untreated
6 wastewater and stormwater into the State's waters, contributing to
7 water pollution and impairing the use and enjoyment of those
8 waters.

9 (5) Stormwater infrastructure in New Jersey currently lacks a
10 dedicated source of funding and, consequently, receives few
11 upgrades and little maintenance once built. In some instances,
12 stormwater infrastructure goes unmonitored and unattended until it
13 breaks down; in other instances, it is simply inadequate to manage
14 stormwater.

15 (6) Establishment of local stormwater utilities presents an
16 effective management strategy to address stormwater issues.
17 Currently, there are more than 1,500 stormwater utilities operating
18 in 40 states across the country and the District of Columbia.
19 Stormwater utilities are often authorized to assess fair and equitable
20 fees to fund the development, improvement, and management of
21 stormwater infrastructure.

22 b. The Legislature therefore determines that it is in the public
23 interest to authorize the establishment of local stormwater utilities,
24 and to allow those utilities to assess fees ²that are based on a fair
25 and equitable approximation of the proportionate contribution of
26 stormwater runoff from any real property², in order to finance the
27 improvement of the State's stormwater infrastructure, better control
28 water pollution and flooding, restore and enhance the quality of the
29 State's waters, and protect the public health, safety, and welfare and
30 the environment.

31 The Legislature further determines that green infrastructure is an
32 effective approach to managing stormwater because it reduces and
33 treats stormwater at its source while delivering other environmental,
34 social, and economic benefits. The use of green infrastructure
35 should be encouraged and, where appropriate, required to help
36 decrease pollutant loads and runoff volumes to receiving waters.

37

38 3. (New section) As used in sections 1 through ²**[17]** 18² of
39 P.L. , c. (C.) (pending before the Legislature as this bill):

40 "Authority" means a county or municipal sewerage authority
41 established pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a
42 county or municipal utilities authority established pursuant to
43 P.L.1957, c.183 (C.40:14B-1 et seq.), or a county improvement
44 authority established pursuant to P.L.1960, c.183 (C.40:37A-44 et
45 seq.).

46 "Department" means the Department of Environmental
47 Protection.

1 “Division” means the Division of Local Government Services in
2 the Department of Community Affairs.

3 “Green infrastructure” means a stormwater management system
4 that treats stormwater runoff through infiltration into subsoil, treats
5 stormwater runoff through filtration by vegetation or soil, or stores
6 stormwater runoff for reuse.

7 “New Jersey Pollutant Discharge Elimination System permit”
8 means any permit issued by the department pursuant to section 6 of
9 P.L.1977, c.74 (C.58:10A-6).

10 “Stormwater” means water resulting from precipitation,
11 including rain and snow, which runs off the land’s surface, is
12 transmitted to the subsurface, or is captured by separate storm
13 sewers or other sewage or drainage facilities, or conveyed by snow
14 removal equipment.

15 “Stormwater management system” means any equipment, plant,
16 structures, machinery, apparatus, management practices, design
17 practices, planning activities, or land, or any combination thereof,
18 acquired, used, constructed, implemented, or operated to convey
19 stormwater, control or reduce stormwater runoff and associated
20 pollutants or flooding, induce or control the infiltration of
21 groundwater recharge of stormwater, or eliminate illicit or illegal
22 nonstormwater discharges into stormwater conveyances.

23

24 4. (New section) a. The governing body of any county or
25 municipality may, by resolution or ordinance, as appropriate, establish
26 a stormwater utility for the purposes of acquiring, constructing,
27 improving, maintaining, and operating stormwater management
28 systems in the county or municipality, consistent with State and
29 federal laws, rules, and regulations.

30 b. Any stormwater utility that is established pursuant to this
31 section shall be considered a “municipal public utility” for the
32 purposes of Title 40A of the New Jersey Statutes. Notwithstanding
33 any other law to the contrary, a county or municipality may
34 establish a stormwater utility as a new department within the county
35 or municipality, or as an operation of an existing department or
36 departments having responsibility and control over stormwater
37 management systems or portions thereof.

38 c. A county or municipality that establishes a stormwater
39 utility pursuant to this section shall submit a copy of the resolution
40 or ordinance adopted pursuant to subsection a. of this section to the
41 Department of Environmental Protection and the Division of Local
42 Government Services in the Department of Community Affairs.
43 The establishment of a stormwater utility pursuant to this section
44 shall not be construed to modify or otherwise affect a county or
45 municipality’s obligations under any New Jersey Pollutant
46 Discharge Elimination System permit or any other rule, regulation,
47 order, or permit issued by the department.

1 5. (New section) a. The governing body or bodies of one or
2 more municipalities that have established a municipal sewerage
3 authority pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or a
4 municipal utilities authority pursuant to P.L.1957, c.183 (C.40:14B-1
5 et seq.) may, by ordinance, or parallel ordinances, as appropriate,
6 request that the authority establish a stormwater utility for the purposes
7 of acquiring, constructing, improving, maintaining, and operating
8 stormwater management systems in the municipality or municipalities,
9 consistent with State and federal laws, rules, and regulations.

10 b. Upon the request of a municipality or municipalities, an
11 authority may establish a stormwater utility pursuant to a service
12 agreement between the authority and the requesting municipality or
13 municipalities, in accordance with the provisions of P.L. ,
14 c. (C.) (pending before the Legislature as this bill) and the
15 “Local Authorities Fiscal Control Law,” P.L.1983, c.313
16 (C.40A:5A-1 et seq.). The agreement shall set forth the powers,
17 duties, and functions of the stormwater utility and any other matters
18 that may be necessary for the agreement. A stormwater utility
19 established pursuant to this section shall be considered a separate
20 operation of the authority to be budgeted and accounted for
21 separately.

22 c. An authority that establishes a stormwater utility pursuant to
23 this section shall submit a copy of the service agreement to the
24 Department of Environmental Protection and the Division of Local
25 Government Services in the Department of Community Affairs. A
26 municipality that contractually delegates to an authority any of its
27 responsibilities under any New Jersey Pollutant Discharge
28 Elimination System permit or any other rule, regulation, order, or
29 permit issued by the department shall remain responsible for
30 compliance with any such rules, regulations, orders, or permits if
31 the authority fails to implement the requirements thereof.

32
33 6. (New section) a. The governing body of any county that
34 has established a county sewerage authority pursuant to P.L.1946,
35 c.138 (C.40:14A-1 et seq.), a county utilities authority pursuant to
36 P.L.1957, c.183 (C.40:14B-1 et seq.), or a county improvement
37 authority pursuant to P.L.1960, c.183 (C.40:37A-44 et seq.) may, by
38 resolution, request that the authority establish a stormwater utility for
39 the purposes of acquiring, constructing, improving, maintaining, and
40 operating stormwater management systems in the county, consistent
41 with State and federal laws, rules, and regulations.

42 b. Upon the request of a county, an authority may establish a
43 stormwater utility pursuant to a service agreement between the
44 authority and the requesting county, in accordance with the provisions
45 of P.L. , c. (C.) (pending before the Legislature as this bill)
46 and the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
47 (C.40A:5A-1 et seq.). The agreement shall set forth the powers,
48 duties, and functions of the stormwater utility and any other matters

1 that may be necessary for the agreement. A stormwater utility
2 established pursuant to this section shall be considered a separate
3 operation of the authority to be budgeted and accounted for
4 separately.

5 c. An authority that establishes a stormwater utility pursuant to
6 this section shall submit a copy of the service agreement to the
7 Department of Environmental Protection and the Division of Local
8 Government Services in the Department of Community Affairs. A
9 county that contractually delegates to an authority any of its
10 responsibilities under any New Jersey Pollutant Discharge
11 Elimination System permit or any other rule, regulation, order, or
12 permit issued by the department shall remain responsible for
13 compliance with any such rules, regulations, orders, or permits if
14 the authority fails to implement the requirements thereof.

15

16 7. (New section) a. The governing bodies of any two or more
17 municipalities may, pursuant to the provisions of P.L.2007, c.63
18 (C.40A:65-1 et al.), enter into a shared services agreement to
19 provide for the construction, improvement, maintenance, or
20 operation of stormwater management systems in the municipalities,
21 consistent with State and federal laws, rules, and regulations.

22 b. The governing body or bodies of one or more municipalities,
23 and the county in which the municipality or municipalities are
24 located may, pursuant to the provisions of P.L.2007, c.63
25 (C.40A:65-1 et al.), enter into a shared services agreement to
26 provide for the construction, improvement, maintenance, or
27 operation of stormwater management systems in the municipalities,
28 consistent with State and federal laws, rules, and regulations.

29 c. Any county or municipality that enters into a shared services
30 agreement pursuant to this section shall submit a copy of the
31 agreement to the Department of Environmental Protection and the
32 Division of Local Government Services in the Department of
33 Community Affairs.

34

35 8. (New section) a. Any county, municipality, or authority
36 that establishes a stormwater utility pursuant to P.L. ,

37 c. (C.) (pending before the Legislature as this bill) may
38 charge and collect reasonable fees and other charges to recover the
39 stormwater utility's costs for stormwater management. These fees
40 and other charges may be charged to and collected from the owner
41 or occupant, or both, of any real property from which originates
42 stormwater runoff which directly or indirectly enters the stormwater
43 management system or the waters of the State. The owner of any
44 such real property shall be liable for and shall pay such fees and
45 charges to the stormwater utility at the time when and place where
46 the fees and charges are due and payable.

47 b. Any fee or other charge that a county, municipality, or
48 authority charges and collects pursuant to this section shall be based

1 on a fair and equitable approximation of the proportionate
2 contribution of stormwater runoff from a real property.

3 c. In establishing fees and other charges pursuant to this
4 section, a county, municipality, or authority shall provide for:

5 (1) a partial fee reduction in the form of a credit for any property
6 that maintains and operates a stormwater management system that
7 complies with the State and local stormwater management standards
8 that were in place at the time the system was approved and that
9 effectively reduces, retains, or treats stormwater onsite;

10 (2) an additional partial fee reduction in the form of a credit for
11 any property² which has installed and is operating and maintaining
12 current² stormwater best management practices that reduce, retain,
13 or treat stormwater onsite and which are approved by the county,
14 municipality, or authority;

15 ²~~[(2)]~~ (3)² an additional partial fee reduction in the form of a
16 credit for any property which has installed and is operating and
17 maintaining green infrastructure that reduces, retains, or treats
18 stormwater onsite and which exceeds any requirements for green
19 infrastructure that may be applicable to that property under any rule
20 or regulation adopted by the Department of Environmental
21 Protection or the local stormwater control ordinance; and

22 ²~~[(3)]~~ (4)² an exemption from fees and other charges for land
23 actively devoted to agricultural or horticultural use that is valued,
24 assessed, and taxed pursuant to the “Farmland Assessment Act of
25 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

26 d. Any county, municipality, or authority that collects fees and
27 charges pursuant to this section shall remit to the State Treasurer
28 annually an amount equal to five percent of all such fees and
29 charges collected, or \$50,000, whichever amount is less. The State
30 Treasurer shall deposit these moneys into the “Clean Stormwater
31 and Flood Reduction Fund” established pursuant to section ²~~16~~
32 17² of P.L. , c. (C.) (pending before the Legislature as this
33 bill).

34 e. Except as provided in section 5 of P.L.1983, c.111
35 (C.40A:4-35.1) or ²~~Section~~ section² 1 of P.L.2004, c.87
36 (C.40A:5A-12.1), as applicable, a county, municipality, or authority
37 shall only use fees and other charges collected pursuant to this
38 section to pay for or recover all or a portion of the cost of the
39 following:

40 (1) initial establishment of a stormwater utility pursuant to
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 and ongoing related administrative expenses;

43 (2) capital expenditures, including planning, design,
44 engineering, acquisition, construction, and improvement of a
45 stormwater management system;

46 (3) operation and maintenance expenditures of a stormwater
47 management system;

- 1 (4) development and implementation of an asset management
2 program for a stormwater management system;
- 3 (5) development and implementation of a stormwater
4 management plan and stormwater control ordinances pursuant to
5 section 1 of P.L.1981, c.32 (C.40:55D-93);
- 6 (6) ¹any action required pursuant to any New Jersey Pollutant
7 Discharge Elimination System permit;
- 8 (7)¹ development and implementation of any long-term control
9 plan to mitigate combined sewer overflows pursuant to State or
10 federal law, rule, regulation, permit, or consent decree;
- 11 ¹~~[(7)]~~ (8)¹ monitoring, inspection, and enforcement activities to
12 carry out the purposes of P.L. , c. (C.) (pending before the
13 Legislature as this bill);
- 14 ¹~~[(8)]~~ (9)¹ public education and outreach related to stormwater
15 management; and
- 16 ¹~~[(9)]~~ (10)¹ any other purpose related to stormwater
17 management as may be authorized by the department, the Division
18 of Local Government Services in the Department of Community
19 Affairs, or the Local Finance Board pursuant to rules, regulations,
20 or permits.
- 21 f. In establishing fees and other charges and appropriate credits
22 pursuant to this section, a county, municipality, or authority shall
23 consult the guidance manual developed pursuant to section ²~~[(15)]~~
24 16² of P.L. , c. (C.) (pending before the Legislature as this
25 bill), and other best practice guidance manuals published by
26 industry organizations.
27
- 28 9. (New section) In the event that a stormwater utility fee or
29 charge of any county, municipality, or authority with regard to any
30 parcel of real property is not paid when due:
 - 31 a. interest shall accrue and be due to the county or authority on
32 the unpaid balance at the rate of one and one half percent per month
33 until such fees and charges, and the interest thereon, shall be fully
34 paid to the county or authority; interest shall accrue and be due to
35 the municipality on the unpaid balance at a rate not to exceed that
36 permitted under R.S.54:4-67;
 - 37 b. the unpaid balance thereof and all interest accruing thereon
38 shall be a lien on such parcel enforced in the same manner as
39 delinquent property taxes and municipal charges. Such lien shall be
40 superior and paramount to the interest in such parcel of any owner,
41 lessee, tenant, mortgagee, or other person except the lien of State
42 taxes and property taxes and shall be on a parity with and deemed
43 equal to the lien on such parcel of State taxes and property taxes;
44 and
 - 45 c. the unpaid balance thereof and all interest accrued thereon,
46 together with attorneys' fees and costs, may also be recovered by

1 the county, municipality, or authority in a civil action, but not in
2 lieu of enforcement as a delinquent municipal charge.

3
4 10. (New section) A county, municipality, or authority that
5 establishes a stormwater utility pursuant to P.L. , c. (C.)
6 (pending before the Legislature as this bill) may provide, by
7 ordinance or resolution, as appropriate, at one time, or from time to
8 time, for the issuance of bonds for the purpose of raising funds to
9 pay the cost of any part of the stormwater management system. The
10 bonds shall be issued pursuant to each entity's respective authority
11 under the "Local Bond Law," N.J.S.40A:2-1 et seq., P.L.1946, c.138
12 (C.40:14A-1 et seq.), P.L.1957, c.183 (C.40:14B-1 et seq.), P.L.1960,
13 c.183 (C.40:37A-44 et seq.), or any other applicable law.

14
15 11. (New section) a. A county, municipality, or authority that
16 establishes a stormwater utility pursuant to P.L. , c. (C.)
17 (pending before the Legislature as this bill) shall, within one year
18 after establishment of the utility, and each year thereafter, prepare
19 and submit to the Division of Local Government Services in the
20 Department of Community Affairs and the Department of
21 Environmental Protection a report in the form and manner
22 determined by the department and the division pursuant to
23 subsection b. of this section. Each county, municipality, or
24 authority shall post the annual report on its Internet website.

25 b. Within 18 months after the effective date of this section, the
26 division, in consultation with the department, shall adopt, pursuant
27 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
28 1 et seq.), rules and regulations outlining the substantive
29 requirements for, and the form and manner of, the annual report
30 required pursuant to subsection a. of this section. The annual report
31 shall include, but need not be limited to, information on:

- 32 (1) the stormwater utility's service area;
- 33 (2) the schedule of fees ¹**[and]** ¹ other charges ¹, and credits¹
34 that the county, municipality, or authority has established;
- 35 (3) the number of properties subject to the stormwater utility's
36 fees and other charges, and the number of properties ¹of each land
37 use type, including but not limited to residential, commercial, and
38 industrial.¹ that have been granted credits or exemptions from the
39 fee ¹, and the cumulative value of credits that have been granted to
40 properties of each land use type¹ ;
- 41 (4) the total revenues from stormwater utility fees and other
42 charges collected by the county, municipality, or authority;
- 43 (5) the percentage and amount of revenues from fees and other
44 charges spent on each of the purposes authorized in subsection e. of
45 section 8 of P.L. , c. (C.) (pending before the Legislature as
46 this bill); and

1 (6) all stormwater management projects implemented in the
2 previous fiscal year.

3
4 12. (New section) a. A county, municipality, or authority that
5 establishes a stormwater utility pursuant to P.L. , c. (C.)
6 (pending before the Legislature as this bill) may acquire by gift,
7 grant, purchase, or condemnation, or in any other lawful manner,
8 any privately-owned stormwater management system, or any real
9 property necessary for the construction, improvement, operation, or
10 maintenance of a stormwater management system.

11 b. If a county, municipality, or authority requires any payment
12 as a condition of, or in connection with, assuming ownership,
13 operation, or maintenance of any privately-owned stormwater
14 management system, the payment shall not exceed the costs
15 attributable to the ownership, operation, or maintenance of that
16 stormwater management system.

17
18 ²13. a. (New section) Notwithstanding the provisions of section
19 12 of P.L. , c. (C.) (pending before the Legislature as this
20 bill), the owner of a stormwater management system that complies
21 with the State and local stormwater management standards that
22 were in place at the time the system was approved may retain
23 ownership and responsibility for the operation and maintenance of
24 the system, or offer to dedicate the system to the county,
25 municipality, or authority. The county, municipality, or authority
26 may accept the dedication of, and assume operation and
27 maintenance responsibility for, the stormwater management system.

28 b. Any person who dedicates a stormwater management system
29 to a county, municipality, or authority pursuant to this section shall
30 still be liable for paying any applicable stormwater utility fee
31 imposed pursuant to section 8 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).²

33
34 ²[13.] 14.² (New section) A county, municipality, or authority
35 that establishes a stormwater utility pursuant to P.L. ,
36 c. (C.) (pending before the Legislature as this bill) may,
37 pursuant to the “Local Public Contracts Law,” P.L.1971, c.198
38 (C.40A:11-1 et seq.), enter into a contract with a private entity for
39 the planning, design, engineering, construction, improvement,
40 maintenance, and operation of a stormwater management system.

41
42 ²[14.] 15.² (New section) Each county, municipality, and
43 authority shall adopt rules and regulations requiring that not less
44 than the prevailing wage rate be paid to workers employed in the
45 performance of any construction contract undertaken in connection
46 with financial assistance provided for the construction of a
47 stormwater management system under P.L. , c. (C.)
48 (pending before the Legislature as this bill). The prevailing wage

1 rate shall be the rate determined by the Commissioner of Labor
2 pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et
3 seq.).

4 For the purposes of this section, “financial assistance” means any
5 loan, bond, loan guarantee, grant, incentive, tax exemption, or other
6 financial assistance approved, funded, authorized, administered, or
7 provided by the municipality, county, or authority in connection
8 with the construction of a stormwater management system.
9

10 ²[15.] 16.² (New section) a. Within 18 months after the
11 effective date of this section, the Department of Environmental
12 Protection, in consultation with the Board of Public Utilities
13 ¹[and] ², the Division of Local Government Services in the
14 Department of Community Affairs, ¹and stakeholders as the
15 department deems appropriate.¹ shall develop a stormwater utility
16 guidance manual. The department shall periodically update the
17 guidance manual as the department deems appropriate. The
18 guidance manual shall include, but need not be limited to:

19 (1) technical assistance for counties, municipalities, and
20 authorities seeking to establish a stormwater utility pursuant to
21 P.L. , c. (C.) (pending before the Legislature as this bill);

22 (2) factors for counties, municipalities, and authorities to
23 consider when establishing ¹and revising¹ stormwater utility fees
24 and other charges and appropriate credits;

25 (3) information on how to develop an asset management
26 program for a stormwater management system; and

27 (4) information on how counties, municipalities, and authorities
28 can conduct public education and outreach related to stormwater
29 management.

30 b. Development of the stormwater utility guidance manual, and
31 any updates thereto, shall not be subject to the requirements and
32 provisions of the “Administrative Procedure Act,” P.L.1968, c.410
33 (C.52:14B-1 et seq.).
34

35 ²[16.] 17.² (New section) a. There is established in the General
36 Fund a special nonlapsing account to be known as the “Clean
37 Stormwater and Flood Reduction Fund.” The State Treasurer shall
38 credit to this account all moneys remitted to the State Treasurer by
39 counties, municipalities, and authorities pursuant to subsection d. of
40 section 8 of P.L. , c. (C.) (pending before the Legislature as
41 this bill). Pending the use thereof, moneys deposited in the fund
42 may be invested or reinvested in such securities as are approved by
43 the State Treasurer. Interest or other income earned on moneys
44 deposited into the fund shall be credited to the fund for use as set
45 forth in subsection b. of this section.

46 b. Moneys deposited in the “Clean Stormwater and Flood
47 Reduction Fund” are specifically dedicated and shall be used by the

1 Department of Environmental Protection only to fund planning,
2 implementation, and coordination activities related to stormwater
3 utilities in the State, water quality monitoring and assessment, point
4 and non-point source water pollution reduction projects,
5 implementation of the department's stormwater management
6 program, and a public education and outreach program relating to
7 stormwater management.

8
9 ²[17.] 18.² (New section) The Department of Environmental
10 Protection, the Division of Local Government Services in the
11 Department of Community Affairs, and the Local Finance Board
12 may adopt, pursuant to the "Administrative Procedure Act,"
13 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
14 necessary for the implementation of P.L. , c. (C.) (pending
15 before the Legislature as this bill).

16
17 ²[18.] 19.² Section 1 of P.L.2017, c.290 (C.40:14A-4.2) is
18 amended to read as follows:

19 1. a. Notwithstanding the provisions of any other law to the
20 contrary, the budget of ²[every] a² regional sewerage authority
21 that was² created pursuant to the provisions of P.L.1946, c.138
22 (C.40:14A-1 et seq.) ², and that is located in a county of the first
23 class with a population of over 600,000 and a population density of
24 over 10,000 persons per square mile according to the latest federal
25 decennial census² shall be subject to the following provisions:

26 (1) (a) The percentage of growth in the fee-funded
27 appropriations in the annual budget of a regional sewerage authority
28 shall not exceed two percent per year; and the amount billed to
29 customers of the authority, or the amount billed to a local unit for
30 its proportional share of the authority's expenses, as the case may
31 be, shall not exceed that amount billed in the previous budget year
32 to each customer or local unit, as the case may be, by more than two
33 percent for a similar amount of use or service of the sewerage
34 system.

35 (b) A regional sewerage authority may add to the allowable
36 growth in fee-funded appropriations in any one of the next three
37 succeeding years, the amount of the difference between the
38 maximum allowable increase in fee-funded appropriations for the
39 current budget year pursuant to subparagraph (a) of this paragraph
40 and the actual amount of fee-funded appropriations for the current
41 budget year.

42 (2) The percentage of growth in the fee-funded appropriations in
43 the annual budget of a regional sewerage authority shall be
44 determined without consideration of any amounts appropriated by
45 the authority for:

- 1 (a) capital expenditures, including payment of principal or
2 interest on bonds authorized or issued pursuant to the "sewerage
3 authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.);
- 4 (b) increases in pension contributions and accrued liability for
5 pension contributions in excess of two percent over those
6 expenditures for the previous budget year ;
- 7 (c) increases in health care costs equal to that portion of the
8 actual increase in total health costs for the budget year that is in
9 excess of two percent of total health care costs in the previous
10 budget year, but is not in excess of the product of the total health
11 care costs in the prior year and the average percentage increase of
12 the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et
13 seq.), as annually determined by the Division of Pensions and
14 Benefits in the Department of the Treasury;
- 15 (d) increases in energy cost expenditures in excess of two
16 percent over those expenditures for the previous budget year;
- 17 (e) extraordinary costs that are directly related to an emergency;
- 18 **【and】**
- 19 (f) expenditures for the cost of services mandated by any order
20 of court, by any federal or State statute, or by administrative rule,
21 directive, order, permit, or other legally binding device issued by a
22 State agency which identified the cost as a mandated expenditure on
23 certification to the Local Finance Board by the State agency ; and
- 24 (g) costs associated with the establishment of a stormwater
25 utility pursuant to P.L. , c. (C.) (pending before the
26 Legislature as this bill) or for any of the purposes authorized in
27 subsection e. of section 8 of P.L. , c. (C.) (pending before
28 the Legislature as this bill).
- 29 (3) Notwithstanding the limitations imposed by paragraph (1) of
30 this **【section】** subsection, a regional sewerage authority may apply
31 to the Local Finance Board for a waiver to increase its rents, rates,
32 fees, and charges to levels sufficient to compensate for loss of
33 revenues due to reductions in the use or service of the sewerage
34 system.
- 35 (4) Notwithstanding the limitations imposed by paragraph (1) of
36 this subsection, the percentage of growth in the increase of the
37 rents, rates, fees, and charges of a regional sewerage authority shall
38 be determined without consideration of any amounts required to be
39 raised for the purposes set forth in subparagraph (g) of paragraph
40 (2) of this subsection.
- 41 As used in this section, "emergency" shall mean any purpose
42 which is not foreseen at the time of the adoption of the annual
43 budget, or for which adequate provision was not made therein, to
44 meet a pressing need for public expenditure to protect or promote
45 the public health, safety, morals, or welfare.
- 46 b. After the budget of a regional sewerage authority ²that is
47 subject to the provisions of subsection a. of this section² has been
48 approved by the members of the regional sewerage authority, the

1 budget shall be forwarded to the Director of the Division of Local
2 Government Services for review and approval.

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

9 If the director determines that the budget meets the requirements
10 of this subsection, the director shall approve the budget. If the
11 director does not approve the budget, the director shall return the
12 budget to the members of the regional sewerage authority with
13 written information concerning the reasons for the disapproval of
14 the budget.

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

19 (cf: P.L.2017, c.290, s.1)

20

21 ¹**[19.] 20.**² Section 5 of P.L.1983, c.111 (C.40A:4-35.1) is
22 amended to read as follows:

23 5. To the extent there is available surplus revenue collected by
24 a municipality pursuant to chapter 62 of Title 40 of the Revised
25 Statutes for supplying a utility service which is regulated by the
26 Board of Public Utilities pursuant to subsection d. of N.J.S.40A:31-
27 23 , or to the extent there is available surplus revenue collected by a
28 county or municipality from a stormwater utility established
29 pursuant to P.L. , c. (C.) (pending before the Legislature as
30 this bill), an amount not to exceed **[5%]** five percent of the annual
31 costs of operation of the utility may be transferred annually from
32 the accounts of the municipal utility or county utility , as
33 appropriate, and included in the local budget pursuant to
34 N.J.S.40A:4-35.

35 (cf: P.L.1989, c.109, s.2)

36

37 ²**[20.] 21.**² Section 1 of P.L.1999, c.440 (C.40A:11-4.1) is
38 amended to read as follows:

39 1. Notwithstanding the provisions of any law, rule , or
40 regulation to the contrary, competitive contracting may be used by
41 local contracting units in lieu of public bidding for procurement of
42 specialized goods and services the price of which exceeds the bid
43 threshold, for the following purposes:

44 a. The purchase or licensing of proprietary computer software
45 designed for contracting unit purposes, which may include
46 hardware intended for use with the proprietary software. This
47 subsection shall not be utilized for the purpose of acquiring general
48 purpose computer hardware or software;

- 1 b. The hiring of a for-profit entity or a not-for-profit entity
2 incorporated under Title 15A of the New Jersey Statutes for the
3 purpose of:
- 4 (1) the operation and management of a wastewater treatment
5 system , a stormwater management system, or a water supply or
6 distribution facility of the type described in subsection (37) of
7 section 15 of P.L.1971, c.198 (C.40A:11-15), provided that
8 competitive contracting shall not be used as a means of awarding
9 contracts pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and
10 P.L.1985, c.72 (C.58:27-1 et al.);
- 11 (2) the operation, management or administration of recreation or
12 social service facilities or programs, which shall not include the
13 administration of benefits under the Work First New Jersey
14 program established pursuant to P.L.1997, c.38 (C.44:10-55 et
15 seq.), or under General Assistance;
- 16 (3) the operation, management or administration of data
17 processing services; or
- 18 (4) the operation and management of a county hospital pursuant
19 to the "Local Hospital Authority Law," P.L.2006, c.46 (C.30:9-
20 23.15 et al.);
- 21 c. (Deleted by amendment, P.L.2009, c.4).
- 22 d. Homemaker--home health services;
- 23 e. Laboratory testing services;
- 24 f. Emergency medical services;
- 25 g. Contracted food services;
- 26 h. Performance of patient care services by contracted medical
27 staff at county hospitals, correctional facilities and long-term care
28 facilities;
- 29 i. At the option of the governing body of the contracting unit,
30 any good or service that is exempt from bidding pursuant to section
31 5 of P.L.1971, c.198 (C.40A:11-5);
- 32 j. Concessions;
- 33 k. The operation, management or administration of other
34 services, with the approval of the Director of the Division of Local
35 Government Services;
- 36 l. Maintenance, custodial, and groundskeeping services;
- 37 m. Consulting services;
- 38 n. Emergency medical billing services;
- 39 o. Property appraisal services;
- 40 p. Reassessment or revaluation services;
- 41 q. Grant writing services;
- 42 r. Animal control services.
- 43 Any purpose included herein shall not be considered by a
44 contracting unit as an extraordinary unspecifiable service pursuant
45 to subparagraph (ii) of paragraph (a) of subsection (1) of section 5
46 of P.L.1971, c.198 (C.40A:11-5).

1 As used in this section, “stormwater management system” means
2 the same as that term is defined in section 3 of P.L. , c. (C.)
3 (pending before the Legislature as this bill).
4 (cf: P.L.2016, c.55, s.9)

5
6 ²~~[21.]~~ 22.² Section 15 of P.L.1971, c.198 (C.40A:11-15) is
7 amended to read as follows:

8 15. All contracts for the provision or performance of goods or
9 services shall be awarded for a period not to exceed 24 consecutive
10 months, except that contracts for professional services pursuant to
11 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
12 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
13 exceed 12 consecutive months. Contracts may be awarded for
14 longer periods of time as follows:

15 (1) Supplying of:

16 (a) (Deleted by amendment, P.L.1996, c.113.)

17 (b) (Deleted by amendment, P.L.1996, c.113.)

18 (c) Thermal energy produced by a cogeneration facility, for use
19 for heating or air conditioning or both, for any term not exceeding
20 40 years, when the contract is approved by the Board of Public
21 Utilities. For the purposes of this paragraph, "cogeneration" means
22 the simultaneous production in one facility of electric power and
23 other forms of useful energy such as heating or process steam;

24 (2) (Deleted by amendment, P.L.1977, c.53.)

25 (3) The collection and disposal of municipal solid waste, the
26 collection and disposition of recyclable material, or the disposal of
27 sewage sludge, for any term not exceeding in the aggregate, five
28 years;

29 (4) The collection and recycling of methane gas from a sanitary
30 landfill facility, for any term not exceeding 25 years, when the
31 contract is in conformance with a district solid waste management
32 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
33 with the approval of the Division of Local Government Services in
34 the Department of Community Affairs and the Department of
35 Environmental Protection. The contracting unit shall award the
36 contract to the highest responsible bidder, notwithstanding that the
37 contract price may be in excess of the amount of any necessarily
38 related administrative expenses; except that if the contract requires
39 the contracting unit to expend funds only, the contracting unit shall
40 award the contract to the lowest responsible bidder. The approval
41 by the Division of Local Government Services of public bidding
42 requirements shall not be required for those contracts exempted
43 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

44 (5) Data processing service, for any term of not more than seven
45 years;

46 (6) Insurance, including the purchase of insurance coverages,
47 insurance consulting or administrative services, claims
48 administration services and including participation in a joint self-

1 insurance fund, risk management program or related services
2 provided by a contracting unit insurance group, or participation in
3 an insurance fund established by a local unit pursuant to
4 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
5 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
6 than three years;

7 (7) Leasing or servicing of (a) automobiles, motor vehicles,
8 machinery, and equipment of every nature and kind, for a period not
9 to exceed five years, or (b) machinery and equipment used in the
10 generation of electricity by a municipal shared services energy
11 authority established pursuant to section 4 of P.L.2015, c.129
12 (C.40A:66-4), or a contracting unit engaged in the generation of
13 electricity, for a period not to exceed 20 years; provided, however, a
14 contract shall be awarded only subject to and in accordance with the
15 rules and regulations promulgated by the Director of the Division of
16 Local Government Services in the Department of Community
17 Affairs;

18 (8) The supplying of any product or the rendering of any service
19 by a company providing voice, data, transmission, or switching
20 services for a term not exceeding five years;

21 (9) Any single project for the construction, reconstruction, or
22 rehabilitation of any public building, structure, or facility, or any
23 public works project, including the retention of the services of any
24 architect or engineer in connection therewith, for the length of time
25 authorized and necessary for the completion of the actual
26 construction;

27 (10) The providing of food services for any term not exceeding
28 three years;

29 (11) On-site inspections and plan review services undertaken by
30 private agencies pursuant to the "State Uniform Construction Code
31 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
32 more than three years;

33 (12) (Deleted by amendment, P.L.2009, c.4).

34 (13) (Deleted by amendment, P.L.1999, c.440.)

35 (14) (Deleted by amendment, P.L.1999, c.440.)

36 (15) Leasing of motor vehicles, machinery, and other equipment
37 primarily used to fight fires, for a term not to exceed ten years,
38 when the contract includes an option to purchase, subject to and in
39 accordance with rules and regulations promulgated by the Director
40 of the Division of Local Government Services in the Department of
41 Community Affairs;

42 (16) The provision of water supply services or the designing,
43 financing, construction, operation, or maintenance, or any
44 combination thereof, of a water supply facility, or any component
45 part or parts thereof, including a water filtration system, for a period
46 not to exceed 40 years, when the contract for these services is
47 approved by the Division of Local Government Services in the
48 Department of Community Affairs, the Board of Public Utilities,

1 and the Department of Environmental Protection pursuant to
2 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
3 required for those contracts otherwise exempted pursuant to
4 subsection (30), (31), (34), (35) or (43) of this section. For the
5 purposes of this subsection, "water supply services" means any
6 service provided by a water supply facility; "water filtration
7 system" means any equipment, plants, structures, machinery,
8 apparatus, or land, or any combination thereof, acquired, used,
9 constructed, rehabilitated, or operated for the collection,
10 impoundment, storage, improvement, filtration, or other treatment
11 of drinking water for the purposes of purifying and enhancing water
12 quality and insuring its potability prior to the distribution of the
13 drinking water to the general public for human consumption,
14 including plants and works, and other personal property and
15 appurtenances necessary for their use or operation; and "water
16 supply facility" means and refers to the real property and the plants,
17 structures, or interconnections between existing water supply
18 facilities, machinery and equipment and other property, real,
19 personal, and mixed, acquired, constructed, or operated, or to be
20 acquired, constructed, or operated, in whole or in part by or on
21 behalf of a political subdivision of the State or any agency thereof,
22 for the purpose of augmenting the natural water resources of the
23 State and making available an increased supply of water for all
24 uses, or of conserving existing water resources, and any and all
25 appurtenances necessary, useful, or convenient for the collecting,
26 impounding, storing, improving, treating, filtering, conserving, or
27 transmitting of water and for the preservation and protection of
28 these resources and facilities and providing for the conservation and
29 development of future water supply resources;

30 (17) The provision of resource recovery services by a qualified
31 vendor, the disposal of the solid waste delivered for disposal which
32 cannot be processed by a resource recovery facility or the residual
33 ash generated at a resource recovery facility, including hazardous
34 waste and recovered metals and other materials for reuse, or the
35 design, financing, construction, operation, or maintenance of a
36 resource recovery facility for a period not to exceed 40 years when
37 the contract is approved by the Division of Local Government
38 Services in the Department of Community Affairs, and the
39 Department of Environmental Protection pursuant to P.L.1985, c.38
40 (C.13:1E-136 et al.); and when the resource recovery facility is in
41 conformance with a district solid waste management plan approved
42 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
43 this subsection, "resource recovery facility" means a solid waste
44 facility constructed and operated for the incineration of solid waste
45 for energy production and the recovery of metals and other
46 materials for reuse; or a mechanized composting facility, or any
47 other facility constructed or operated for the collection, separation,
48 recycling, and recovery of metals, glass, paper, and other materials

1 for reuse or for energy production; and "residual ash" means the
2 bottom ash, fly ash, or any combination thereof, resulting from the
3 combustion of solid waste at a resource recovery facility;

4 (18) The sale of electricity or thermal energy, or both, produced
5 by a resource recovery facility for a period not to exceed 40 years
6 when the contract is approved by the Board of Public Utilities, and
7 when the resource recovery facility is in conformance with a district
8 solid waste management plan approved pursuant to P.L.1970, c.39
9 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
10 recovery facility" means a solid waste facility constructed and
11 operated for the incineration of solid waste for energy production
12 and the recovery of metals and other materials for reuse; or a
13 mechanized composting facility, or any other facility constructed or
14 operated for the collection, separation, recycling, and recovery of
15 metals, glass, paper, and other materials for reuse or for energy
16 production;

17 (19) The provision of wastewater treatment services or the
18 designing, financing, construction, operation, or maintenance, or
19 any combination thereof, of a wastewater treatment system, or any
20 component part or parts thereof, for a period not to exceed 40 years,
21 when the contract for these services is approved by the Division of
22 Local Government Services in the Department of Community
23 Affairs and the Department of Environmental Protection pursuant to
24 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
25 required for those contracts otherwise exempted pursuant to
26 subsection (36) or (43) of this section. For the purposes of this
27 subsection, "wastewater treatment services" means any services
28 provided by a wastewater treatment system, and "wastewater
29 treatment system" means equipment, plants, structures, machinery,
30 apparatus, or land, or any combination thereof, acquired, used,
31 constructed, or operated for the storage, collection, reduction,
32 recycling, reclamation, disposal, separation, or other treatment of
33 wastewater or sewage sludge, or for the final disposal of residues
34 resulting from the treatment of wastewater, including, but not
35 limited to, pumping and ventilating stations, facilities, plants and
36 works, connections, outfall sewers, interceptors, trunk lines, and
37 other personal property and appurtenances necessary for their
38 operation;

39 (20) The supplying of goods or services for the purpose of
40 lighting public streets, for a term not to exceed five years;

41 (21) The provision of emergency medical services for a term not
42 to exceed five years;

43 (22) Towing and storage contracts, awarded pursuant to
44 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
45 (C.40A:11-5) for any term not exceeding three years;

46 (23) Fuel for the purpose of generating electricity for a term not
47 to exceed eight years;

1 (24) The purchase of electricity or administrative or dispatching
2 services related to the transmission of electricity, from a supplier of
3 electricity subject to the jurisdiction of a federal regulatory agency,
4 from a qualifying small power producing facility or qualifying
5 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
6 supplier of electricity within any regional transmission organization
7 or independent system operator or from an organization or operator
8 or their successors, by a contracting unit engaged in the generation
9 of electricity for retail sale, as of May 24, 1991, for a term not to
10 exceed 40 years, or by a contracting unit engaged solely in the
11 distribution of electricity for retail sale for a term not to exceed ten
12 years, except that a contract with a contracting unit, engaged solely
13 in the distribution of electricity for retail sale, in excess of ten
14 years, shall require the written approval of the Director of the
15 Division of Local Government Services. If the director fails to
16 respond in writing to the contracting unit within 10 business days,
17 the contract shall be deemed approved;

18 (25) Basic life support services, for a period not to exceed five
19 years. For the purposes of this subsection, "basic life support"
20 means a basic level of prehospital care, which includes but need not
21 be limited to patient stabilization, airway clearance,
22 cardiopulmonary resuscitation, hemorrhage control, initial wound
23 care, and fracture stabilization;

24 (26) (Deleted by amendment, P.L.1999, c.440.)

25 (27) The provision of transportation services to an elderly
26 person, an individual with a disability, or an indigent person for any
27 term of not more than three years. For the purposes of this
28 subsection, "elderly person " means a person who is 60 years of age
29 or older. "Individual with a disability" means a person of any age
30 who, by reason of illness, injury, age, congenital malfunction, or
31 other permanent or temporary incapacity or disability, are unable,
32 without special facilities or special planning or design to utilize
33 mass transportation facilities and services as effectively as persons
34 who are not so affected. "Indigent person " means a person of any
35 age whose income does not exceed 100 percent of the poverty level,
36 adjusted for family size, established and adjusted under section
37 673(2) of subtitle B, the "Community Services Block Grant Act,"
38 Pub.L.97-35 (42 U.S.C. s.9902 (2));

39 (28) The supplying of liquid oxygen or other chemicals, for a
40 term not to exceed five years, when the contract includes the
41 installation of tanks or other storage facilities by the supplier, on or
42 near the premises of the contracting unit;

43 (29) The performance of patient care services by contracted
44 medical staff at county hospitals, correction facilities, and long term
45 care facilities, for any term of not more than three years;

46 (30) The acquisition of an equitable interest in a water supply
47 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
48 contract entered into pursuant to the "County and Municipal Water

- 1 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
2 no later than January 7, 1995, for any term of not more than forty
3 years;
- 4 (31) The provision of water supply services or the financing,
5 construction, operation, or maintenance or any combination thereof,
6 of a water supply facility or any component part or parts thereof, by
7 a partnership or copartnership established pursuant to a contract
8 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
9 period not to exceed 40 years;
- 10 (32) Laundry service and the rental, supply, and cleaning of
11 uniforms for any term of not more than three years;
- 12 (33) The supplying of any product or the rendering of any
13 service, including consulting services, by a cemetery management
14 company for the maintenance and preservation of a municipal
15 cemetery operating pursuant to the "New Jersey Cemetery Act,"
16 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;
- 17 (34) A contract between a public entity and a private firm
18 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
19 water supply services may be entered into for any term which, when
20 all optional extension periods are added, may not exceed 40 years;
- 21 (35) A contract for the purchase of a supply of water from a
22 public utility company subject to the jurisdiction of the Board of
23 Public Utilities in accordance with tariffs and schedules of charges
24 made, charged or exacted or contracts filed with the Board of Public
25 Utilities, for any term of not more than 40 years;
- 26 (36) A contract between a public entity and a private firm or
27 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
28 the provision of wastewater treatment services may be entered into
29 for any term of not more than 40 years, including all optional
30 extension periods;
- 31 (37) The operation and management of a facility under a license
32 issued or permit approved by the Department of Environmental
33 Protection, including a wastewater treatment system , a stormwater
34 management system, or a water supply or distribution facility, as
35 the case may be, for any term of not more than ten years. For the
36 purposes of this subsection, "wastewater treatment system" refers to
37 facilities operated or maintained for the storage, collection,
38 reduction, disposal, or other treatment of wastewater or sewage
39 sludge, remediation of groundwater contamination, stormwater
40 runoff, or the final disposal of residues resulting from the treatment
41 of wastewater; "stormwater management system" means the same
42 as that term is defined in section 3 of P.L. , c. (C.) (pending
43 before the Legislature as this bill); and "water supply or distribution
44 facility" refers to facilities operated or maintained for augmenting
45 the natural water resources of the State, increasing the supply of
46 water, conserving existing water resources, or distributing water to
47 users;

- 1 (38) Municipal solid waste collection from facilities owned by a
2 contracting unit, for any term of not more than three years;
- 3 (39) Fuel for heating purposes, for any term of not more than
4 three years;
- 5 (40) Fuel or oil for use in motor vehicles for any term of not
6 more than three years;
- 7 (41) Plowing and removal of snow and ice for any term of not
8 more than three years;
- 9 (42) Purchases made under a contract awarded by the Director of
10 the Division of Purchase and Property in the Department of the
11 Treasury for use by counties, municipalities, or other contracting
12 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
13 term not to exceed the term of that contract;
- 14 (43) A contract between the governing body of a city of the first
15 class and a duly incorporated nonprofit association for the provision
16 of water supply services as defined in subsection (16) of this
17 section, or wastewater treatment services as defined in subsection
18 (19) of this section, may be entered into for a period not to exceed
19 40 years;
- 20 (44) The purchase of electricity generated through class I
21 renewable energy or from a power production facility that is fueled
22 by methane gas extracted from a landfill in the county of the
23 contacting unit for any term not exceeding 25 years;
- 24 (45) The provision or performance of goods or services for the
25 purpose of producing class I renewable energy or class II renewable
26 energy, as those terms are defined in section 3 of P.L.1999, c.23
27 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
28 conducted by, the contracting unit, the entire price of which is to be
29 established as a percentage of the resultant savings in energy costs,
30 for a term not to exceed 15 years; provided, however, that a contract
31 shall be entered into only subject to and in accordance with
32 guidelines promulgated by the Board of Public Utilities establishing
33 a methodology for computing energy cost savings and energy
34 generation costs;
- 35 (46) A power supply contract, as defined pursuant to section 3 of
36 P.L.2015, c.129 (C.40A:66-3), between a member municipality as
37 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and
38 the municipal shared services energy authority established pursuant
39 to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the
40 electric power needs of its members, for the lease, operation, or
41 management of electric generation within a member municipality's
42 corporate limits and franchise area or the purchase of electricity, or
43 the purchase of fuel for generating units for a term not to exceed 40
44 years; and
- 45 (47) A contract entered into pursuant to paragraph (2) of
46 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
47 a county hospital authority and a manager for the management,
48 operation, and maintenance of a hospital owned by the authority or

1 the county for a term not to exceed 20 years, provided, however,
2 that a contract entered into pursuant to paragraph (2) of subsection
3 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
4 two additional periods, not to exceed five years each.

5 Any contract for services other than professional services, the
6 statutory length of which contract is for three years or less, may
7 include provisions for no more than one two-year, or two one-year,
8 extensions, subject to the following limitations: a. The contract
9 shall be awarded by resolution of the governing body upon a
10 finding by the governing body that the services are being performed
11 in an effective and efficient manner; b. No contract shall be
12 extended so that it runs for more than a total of five consecutive
13 years; c. Any price change included as part of an extension shall be
14 based upon the price of the original contract as cumulatively
15 adjusted pursuant to any previous adjustment or extension and shall
16 not exceed the change in the index rate for the 12 months preceding
17 the most recent quarterly calculation available at the time the
18 contract is renewed; and d. The terms and conditions of the contract
19 remain substantially the same.

20 All multiyear leases and contracts entered into pursuant to this
21 section, including any two-year or one-year extensions, except
22 contracts involving the supplying of electricity for the purpose of
23 lighting public streets and contracts for thermal energy authorized
24 pursuant to subsection (1) above, construction contracts authorized
25 pursuant to subsection (9) above, contracts for the provision or
26 performance of goods or services or the supplying of equipment to
27 promote energy conservation through the production of class I
28 renewable energy or class II renewable energy authorized pursuant
29 to subsection (45) above, contracts for water supply services or for
30 a water supply facility, or any component part or parts thereof
31 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
32 or (43) above, contracts for resource recovery services or a resource
33 recovery facility authorized pursuant to subsection (17) above,
34 contracts for the sale of energy produced by a resource recovery
35 facility authorized pursuant to subsection (18) above, contracts for
36 wastewater treatment services or for a wastewater treatment system
37 or any component part or parts thereof authorized pursuant to
38 subsection (19), (36), (37), or (43) above, contracts for the
39 operation and maintenance of a stormwater management system
40 authorized pursuant to subsection (37) above, and contracts for the
41 purchase of electricity or administrative or dispatching services
42 related to the transmission of electricity authorized pursuant to
43 subsection (24) above, contracts for the purchase of electricity
44 generated from a power production facility that is fueled by
45 methane gas authorized pursuant to subsection (44) above, and
46 power supply contracts authorized pursuant to subsection (46)
47 respectively, shall contain a clause making them subject to the
48 availability and appropriation annually of sufficient funds as may

1 be required to meet the extended obligation, or contain an annual
2 cancellation clause.

3 The Division of Local Government Services in the Department
4 of Community Affairs shall adopt and promulgate rules and
5 regulations concerning the methods of accounting for all contracts
6 that do not coincide with the fiscal year.

7 All contracts shall cease to have effect at the end of the
8 contracted period and shall not be extended by any mechanism or
9 provision, unless in conformance with the "Local Public Contracts
10 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
11 may be extended by mutual agreement of the parties to the contract
12 when a contracting unit has commenced rebidding prior to the time
13 the contract expires or when the awarding of a contract is pending
14 at the time the contract expires.

15 (cf: P.L.2016, c.55, s.10)

16

17 ²[22. This act shall take effect on the 180th day after the date of
18 enactment, but sections 18 through 21 shall take effect
19 immediately.]²

20

21 ²23. Sections 19 through 22 shall take effect immediately and
22 the remainder of this act shall take effect on the 180th day after the
23 date of enactment.²

24

25

26

27

28 Authorizes municipalities, counties, and certain authorities to
29 establish stormwater utilities.

SENATE, No. 1073

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JANUARY 22, 2018

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the creation of stormwater utilities and
2 amending and supplementing various parts of the statutory law.

3

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

6

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

9 2. It is hereby declared to be in the public interest and to be the
10 policy of the State to foster and promote by all reasonable means
11 the relief of waters in or bordering the State from pollution and thus
12 to reduce and ultimately abate the menace to the public health
13 resulting from such pollution , and to promote the public health and
14 welfare through appropriate management of stormwater. It is the
15 purpose and object of this act to further and implement such policy
16 by:

17 (1) Authorizing counties, or municipalities either separately or
18 in combination with other municipalities, by means and through the
19 agency of a sewerage authority, to acquire, construct, maintain,
20 operate or improve: (a) works for the collection, treatment,
21 purification or disposal of sewage or other wastes [, and,] ; (b) if
22 necessary, works for the impounding, transportation and release of
23 water for the replenishment in periods of drought or at other
24 necessary times of all or a part of waters in or bordering the State
25 diverted into a sewer, sewage treatment or sewage disposal system
26 operated by the sewerage authority ; and (c) works for the
27 collection, storage, treatment, or disposal of stormwater; or to
28 contract with private firms for the operation or improvement of
29 works for the collection, storage, treatment, or disposal of
30 stormwater;

31 (2) Authorizing service charges to occupants or owners of
32 property for direct or indirect connection with and the use or
33 services of such works, and providing for the establishment,
34 collection and enforcement of such charges;

35 (3) Creating as a body corporate and politic sewerage authorities
36 to have full responsibility and powers with respect to such works
37 and the establishment, collection, enforcement, use and disposition
38 of all such service charges;

39 (4) Providing for the financing of such works, for the issuance
40 of bonds therefor, and for the payment and security of such bonds;
41 and

42 (5) In general, granting to counties and municipalities and to
43 such sewerage authorities discretionary powers to provide for
44 sewerage services designed to relieve pollution of such waters and
45 for management of stormwater at the expense of the users of such

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 services or of counties or municipalities or other persons
2 contracting for or with respect to the same.

3 It is further declared that the acquisition, construction, operation,
4 and maintenance of stormwater management systems are essential
5 to the goals of protecting and improving the State's water quality,
6 and are necessary to prevent and abate nonpoint sources of
7 pollution, minimize stormwater runoff, control flooding, and
8 enhance groundwater recharge.

9 (cf: P.L.1953, c.177, s.2)

10

11 2. Section 3 of P.L.1946, c.138 (C.40:14A-3) is amended to
12 read as follows:

13 3. As used in **[this act]** P.L.1946, c. 138 (C.40:14A-1 et seq.),
14 unless a different meaning clearly appears from the context:

15 (1) "Municipality" shall mean any city of any class, any
16 borough, village, town, township, or any other municipality other
17 than a county or a school district, and except when used in section 4
18 of P.L.1946, c.138 (C.40:14A-4) or section 21 of [this act]
19 P.L.1946, c.138 (C.40:14A-21), any agency thereof or any two or
20 more thereof acting jointly or any joint meeting or other agency of
21 any two or more thereof;

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

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

32 (4) "Person" shall mean any person, association, corporation,
33 nation, State or any agency or subdivision thereof, other than a
34 county or municipality of the State or a sewerage authority;

35 (5) "Sewerage or water reclamation authority" shall mean a
36 public body created pursuant to section 4 of **[this act]** P.L.1946, c.
37 138 (C.40:14A-4);

38 (6) Subject to the exceptions provided in section 4 of **[this act]**
39 P.L.1946, c. 138 (C.40:14A-4), "district" shall mean the area within
40 the territorial boundaries of the county, or of the municipality or
41 municipalities, which created or joined in the creation of a sewerage
42 authority;

43 (7) "Local unit" shall mean the county, or any municipality,
44 which created or joined in the creation of a sewerage authority;

45 (8) "Sewerage system" shall mean the plants, structures, on-site
46 waste-water systems, and other real and personal property acquired,
47 constructed, maintained or operated or to be acquired, constructed,
48 maintained or operated by a sewerage authority for the purposes of

1 the sewerage authority, including sewers, conduits, pipe lines,
2 mains, pumping and ventilating stations, sewage treatment or
3 disposal systems, plants and works, connections, and outfalls,
4 compensating reservoirs, and other plants, structures, boats,
5 conveyances, and other real and personal property, and rights
6 therein, and appurtenances necessary or useful and convenient for
7 the management of stormwater, or the collection, treatment,
8 purification or disposal in a sanitary manner of any sewage, liquid
9 or solid wastes, night soil or industrial wastes;

10 (9) "Cost" shall mean, in addition to the usual connotations
11 thereof, the cost of acquisition or construction of all or any part of a
12 sewerage system and of all or any property, rights, easements,
13 privileges, agreements and franchises deemed by the sewerage
14 authority to be necessary or useful and convenient therefor or in
15 connection therewith and the cost of retiring the present value of the
16 unfunded accrued liability due and owing by a sewerage authority,
17 as calculated by the system actuary for a date certain upon the
18 request of a sewerage authority, for early retirement incentive
19 benefits granted by the sewerage authority pursuant to P.L.1991,
20 c.230 and P.L.1993, c.181, including interest or discount on bonds,
21 cost of issuance of bonds, engineering and inspection costs and
22 legal expenses, costs of financial, professional and other estimates
23 and advice, organization, administrative, operating and other
24 expenses of the sewerage authority prior to and during such
25 acquisition or construction, and all such other expenses as may be
26 necessary or incident to the financing, acquisition, construction and
27 completion of said sewerage system or part thereof and the placing
28 of the same in operation, and also such provision or reserves for
29 working capital, operating, maintenance or replacement expenses or
30 for payment or security of principal of or interest on bonds during
31 or after such acquisition or construction as the sewerage authority
32 may determine, and also reimbursements to the sewerage authority
33 or any county, municipality or other person of any moneys
34 theretofore expended for the purposes of the sewerage authority or
35 to any county or municipality of any moneys theretofore expended
36 for in connection with sanitation facilities;

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

40 (11) "Construct" and "construction" shall connote and include
41 acts of construction, reconstruction, replacement, extension,
42 improvement and betterment of a sewerage system;

43 (12) "Industrial wastes" shall mean liquid or other wastes
44 resulting from any processes of industry, manufacture, trade or
45 business or from the development of any natural resource;

46 (13) "Sewage" shall mean the water-carried wastes created in and
47 carried, or to be carried, away from, or to be processed by on-site
48 wastewater systems, residences, hotels, apartments, schools,

1 hospitals, industrial establishments, or any other public or private
2 building, together with such surface or ground water and industrial
3 wastes as may be present;

4 (14) "On-site wastewater system" means any of several works,
5 facilities, septic tanks or other devices, used to collect, treat,
6 reclaim, or dispose of wastewater or sewage on or adjacent to the
7 property on which the wastewater or sewage is produced, or to
8 convey such wastewater or sewage from said property to such
9 facilities as the authority may establish for its disposal;

10 (15) "Pollution" means the condition of water resulting from the
11 introduction therein of substances of a kind and in quantities
12 rendering it detrimental or immediately or potentially dangerous to
13 the public health, or unfit for public or commercial use;

14 (16) "Ordinance" means a written act of the governing body of a
15 municipality adopted and otherwise approved and published in the
16 manner or mode of procedure prescribed for ordinances tending to
17 obligate such municipality pecuniarily;

18 (17) "Resolution" means a written act of the governing body of a
19 local unit adopted and otherwise approved in the manner or mode of
20 procedure prescribed for resolutions tending to obligate such local
21 unit pecuniarily;

22 (18) "Bonds" shall mean bonds or other obligations issued
23 pursuant to **[this act; and]** P.L.1946, c. 138 (C.40:14A-1 et seq.);

24 (19) "Compensating reservoir" shall mean the structures,
25 facilities and appurtenances for the impounding, transportation and
26 release of water for the replenishment in periods of drought or at
27 other necessary times of all or a part of waters in or bordering the
28 State diverted into a sewer, sewage treatment or sewage disposal
29 system operated by the sewerage authority;

30 (20) "Stormwater" shall mean water resulting from precipitation
31 that: (a) runs off of the land's surface; (b) is transmitted to the
32 subsurface; (c) is captured by separate storm sewers or other
33 sewerage or drainage facilities; or (d) is conveyed by snow removal
34 equipment; and

35 (21) "Stormwater management system" shall mean any
36 equipment, plant, structures, machinery, apparatus, management
37 practices, design practices, planning activities, or land, or any
38 combination thereof, acquired, used, constructed, implemented, or
39 operated to convey stormwater, control or reduce stormwater runoff
40 and associated pollutants or flooding, induce or control the
41 infiltration of groundwater recharge of stormwater, or eliminate
42 illicit or illegal nonstormwater discharges into stormwater
43 conveyances.

44 (cf: P.L.2002, c.42, s.4)

45

46 3. Section 6 of P.L.1946, c.138 (C.40:14A-6) is amended to
47 read as follows:

1 6. (a) The purposes of every sewerage authority shall be (1)
2 the relief of waters in or bordering the State from pollution arising
3 from causes within the district and the relief of waters in, bordering
4 or entering the district from pollution or threatened pollution, and
5 the consequent improvement of conditions affecting the public
6 health , and (2) the promotion of the public health and welfare
7 through appropriate management of stormwater.

8 (b) Every sewerage authority is hereby authorized and directed,
9 subject to the limitations of **【this act】** P.L.1946, c.138 (C.40:14A-1
10 et seq.), to acquire, in its own name but for the local unit or units,
11 by purchase, gift, condemnation or otherwise, and, notwithstanding
12 the provisions of any charter, ordinance or resolution of any county
13 or municipality to the contrary, to construct, maintain, operate and
14 use such trunk, intercepting and outlet sewers, conduits, pipelines,
15 pumping and ventilating stations, treatment plants or works , or
16 stormwater management systems at such places within or without
17 the district, such compensating reservoirs within the county in
18 which the district lies, and such other plants, structures, boats and
19 conveyances, as in the judgment of the sewerage authority will
20 provide an effective and satisfactory method for promoting the
21 purposes of the sewerage authority.

22 (c) Every sewerage authority is hereby authorized and directed,
23 when in its judgment its sewerage system or any part thereof will
24 permit, to collect from any and all public systems within the
25 district all sewage and stormwater, and treat and dispose of the
26 same in such manner as to promote the purposes of the sewerage
27 authority.

28 (cf: P.L.1953, c.177, s.4)

29

30 4. (New section) a. Every sewerage authority is hereby
31 authorized to charge and collect rents, rates, fees, or other charges
32 for direct or indirect use or services of its stormwater management
33 system. The stormwater service charges may be charged to and
34 collected from the owner or occupant, or both, of any real property.
35 The owner of any real property shall be liable for and shall pay the
36 stormwater service charges to the sewerage authority at the time
37 when and place where these charges are due and payable. The
38 rents, rates, fees, and charges shall be determined in a manner
39 consistent with the stormwater utility guidance manual created by
40 the Department of Environmental Protection pursuant to section 24
41 of P.L. , c. (C.) (pending before the Legislature as this bill).

42 b. Any stormwater service charge imposed pursuant to
43 subsection a. of this section shall be calculated in a manner
44 consistent with the guidance provided in the stormwater utility
45 guidance manual created by the Department of Environmental
46 Protection pursuant to section 24 of P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 5. Section 9 of P.L.1946, c.138 (C.40:14A-9) is amended to
2 read as follows:

3 9. a. Any local unit shall have power, in the discretion of its
4 governing body, to appropriate moneys for the purposes of the
5 sewerage authority, and to loan or donate such moneys to the
6 sewerage authority in such installments and upon such terms as may
7 be agreed upon between such local unit and the sewerage authority.

8 b. Subject to section 29 of **【this act】** P.L.1946, c.138
9 (C.40:14A-29), any local unit shall have the power to authorize as a
10 general improvement or, in the case of a local unit which is a
11 municipality, as a local improvement the construction and financing
12 of any facilities for the collection, storage, treatment and disposal of
13 sewage or stormwater arising within a district. Subject to the
14 consent and approval of the sewerage authority, such facilities may
15 be operated by the local unit and the local unit may fix rates and
16 charges for the use thereof, in addition to the payment of special
17 assessments levied by a municipality against lands and real estate
18 specially benefited by such improvements. As provided in section
19 22 of **【this act】** P.L.1946, c.138 (C.40:14A-22), such facilities may
20 be acquired and operated by the sewerage authority as part of the
21 sewerage system, notwithstanding that special assessments may be
22 or may have been levied for such improvements by a municipality.
23 (cf: P.L.1970, c.209, s.1)
24

25 6. Section 23 of P.L.1946, c.138 (C.40:14A-23) is amended to
26 read as follows:

27 23. Any sewerage authority, for the carrying out and
28 effectuation of its purposes, and (a) any of the local units or (b) any
29 other municipality whether within or without the district, and (c)
30 any other sewerage authority, any municipal authority or any other
31 public body of the State empowered to collect, store, treat or
32 dispose of sewage or stormwater (all such local units,
33 municipalities, other sewerage authorities, municipal authorities and
34 other public bodies being hereinafter referred to individually as a
35 "governmental unit") for fostering the relief of waters in, bordering
36 or entering the territorial area of the governmental unit from
37 pollution or threatened pollution, promoting the public health and
38 welfare through appropriate management of stormwater, or assisting
39 the sewerage authority in carrying out and effectuating its purposes
40 may enter into a contract or contracts providing for or relating to
41 the collection, storage, treatment and disposal of sewage or
42 stormwater originating in the district or received by the sewerage
43 authority, or originating in the territorial area of or collected by the
44 governmental unit, by means of the sewerage system or any sewage
45 or stormwater facilities of the governmental unit or both, and the
46 cost and expense of such collection, storage, treatment and
47 disposal, or may enter into a contract with a private firm for the
48 operation or improvement of works for the collection, storage,

1 treatment or disposal of stormwater, and the cost and expense of
2 such collection, storage, treatment and disposal. Such contract or
3 contracts may provide for the payment to the sewerage authority by
4 the governmental unit annually or otherwise of such sum or sums of
5 money, computed at fixed amounts or by a formula based on any
6 factors or other matters described in subsection (b) of section 8 of
7 **[this act]** P.L.1946, c.138 (C.40:14A-8) or section 4 of P.L. , c.
8 (C.) (pending before the Legislature as this bill) or in any other
9 manner, as said contract or contracts may provide, and the sum or
10 sums so payable may include provision for all or any part or a share
11 of the amounts necessary (1) to pay or provide for the expenses of
12 operation and maintenance of the sewerage system, including
13 without limitation insurance, extension, betterments and
14 replacements and the principal of and interest on any bonds, and
15 (2) to provide for any deficits resulting from failure to receive
16 sums payable to the sewerage authority by such governmental unit,
17 any other governmental unit or county, or any person, or from any
18 other cause, and (3) to maintain such reserves or sinking funds for
19 any of the foregoing as may be required by the terms of any
20 contract of the sewerage authority or as may be deemed necessary
21 or desirable by the sewerage authority. Any such contract may
22 provide that the sum or sums so payable to the sewerage authority
23 shall be in lieu of all or any part of the service charges which
24 would otherwise be charged and collected by the sewerage authority
25 with regard to persons or real property within the territorial area of
26 the governmental unit. Such contract or contracts may also contain
27 provisions as to the financing and payment of expenses to be
28 incurred by the sewerage authority and determined by it to be
29 necessary for its purposes prior to the placing in operation of the
30 sewerage system and may provide for the payment by the
31 governmental unit to the sewerage authority for application to such
32 expenses or indebtedness therefor such sum or sums of money,
33 computed as said contract or contracts may provide and as the
34 governing body (hereinafter described) of the governmental unit
35 shall, by virtue of its authorization of and entry into said contract or
36 contracts, determine to be necessary for the purposes of the
37 sewerage authority. Every such contract shall be authorized and
38 entered into under and pursuant to a resolution adopted by the
39 authority in the case of a sewerage or other authority, an ordinance
40 of the governing body in the case of a municipality, a resolution of
41 the governing body in the case of a county, and, in the case of any
42 other public body, a resolution of the commission, council, board or
43 body by whatever name it may be known (in this section sometimes
44 referred to as "governing body") having charge of the finances of
45 such public body, but the terms or text of said contract need not be
46 set forth in full or stated in any such resolution or ordinance if the
47 form of said contract is on file in the office of the clerk or other
48 recording officer of the governmental unit or its governing body

1 and the place and fact of such filing is described in the resolution or
2 ordinance. Any such contract may be made with or without
3 consideration and for a specified or an unlimited time and on any
4 terms and conditions which may be approved by or on behalf of the
5 governmental unit and which may be agreed to by the sewerage
6 authority in conformity with its contracts with the holders of any
7 bonds, and shall be valid whether or not an appropriation with
8 respect thereto is made by the governmental unit prior to
9 authorization or execution thereof. Any contract heretofore or
10 hereafter entered into pursuant to authority of this section shall be
11 valid and shall be binding upon the parties thereto whether or not
12 the terms or text of said contract had been set forth in full or stated
13 in any ordinance or resolution authorizing such contract provided
14 the form of such contract had been filed as aforesaid and the place
15 and fact of such filing was described in such ordinance. Every such
16 governmental unit is hereby authorized and directed to do and
17 perform any and all acts or things necessary, convenient or
18 desirable to carry out and perform every such contract and to
19 provide for the payment or discharge of any obligation thereunder
20 in the same manner as other obligations of such governmental unit.
21 Subject to any such contracts with the holders of bonds, the
22 sewerage authority is hereby authorized to do and perform any and
23 all acts or things necessary, convenient or desirable to carry out and
24 perform every such contract and, in accordance with any such
25 contract, to waive, modify, suspend or reduce the service charges
26 which would otherwise be charged and collected by the sewerage
27 authority with regard to persons or real property within the
28 territorial area of the governmental unit, but nothing in this section
29 or any such contract shall prevent the sewerage authority from
30 charging and collecting, as if such contract had not been made,
31 service charges with regard to such persons and real property
32 sufficient to meet any default or deficiency in any payments agreed
33 in such contract to be made by the governmental unit.

34 (cf: P.L.1974, c.165, s.1)

35

36 7. Section 26 of P.L.1946, c.138 (C.40:14A-26) is amended to
37 read as follows:

38 26. (a) Each county and municipality within the district, and
39 every person owning or operating any sewer or drain or any system
40 of water distribution serving three or more parcels of real property
41 in the district, shall at the request of the sewerage authority make
42 available to the sewerage authority any and all of its maps, plans,
43 specifications, records, books, accounts or other data or things
44 deemed necessary by the sewerage authority for its purposes.

45 (b) Each county, municipality and other public body shall
46 promptly pay to any sewerage authority all service charges which
47 the sewerage authority may charge to it, as owner or occupant of
48 any real property, in accordance with section [eight of this act] 8 of

1 P.L.1946, c.138 (C.40:14A-8) or section 4 of P.L. , c. (C.)
2 (pending before the Legislature as this bill), and shall provide for
3 the payment thereof in the same manner as other obligations of such
4 county, municipality or public body.

5 (c) Each county, municipality and other person owning or
6 operating any sewer or drain which serves three or more parcels of
7 real property in the district and which discharges sewage or
8 stormwater into waters in or bordering the State shall, upon notice
9 from the sewerage authority of its availability and a proposed point
10 of connection with the sewerage system, cause such sewer or drain
11 to be connected with the sewerage system at such point and in such
12 manner as the sewerage authority may specify and shall thereafter
13 cause said sewer or drain to discharge into the sewerage system.

14 (d) Each county, municipality and other person owning or
15 operating any system of water distribution serving three or more
16 parcels of real property in the district shall, from time to time after
17 request therefor by the sewerage authority, deliver to the sewerage
18 authority copies of the records made by it in the regular course of
19 business of the amount of water supplied by it to every such parcel
20 of real property in the district. Such copies shall be delivered to the
21 sewerage authority within sixty days after the making of such
22 records, and the sewerage authority shall pay the reasonable cost of
23 preparation and delivery of such copies.

24 (e) Each county and municipality owning or operating any
25 system of water distribution serving three or more parcels of real
26 property in the district shall, and every other person owning or
27 operating any such system may, and is hereby authorized to enter
28 into and perform a contract with the sewerage authority that it will,
29 upon request by the sewerage authority specifying a parcel of real
30 property in the district with regard to which a service charge under
31 section **【eight of this act】** 8 of P.L.1946, c.138 (C.40:14A-8) or
32 section 4 of P.L. , c. (C.) (pending before the Legislature as
33 this bill) is unpaid, cause the supply of water from its system to
34 such parcel of real property to be stopped or restricted, as the
35 sewerage authority may request, until such service charge and any
36 subsequent service charge with regard to such parcel and the
37 interest accrued thereon shall be fully paid or until the sewerage
38 authority directs otherwise. No such county, municipality or other
39 person shall be liable for any loss, damage or other claim based on
40 or arising out of the stopping or restricting of such supply, and the
41 sewerage authority shall pay the reasonable cost of so stopping or
42 restricting such supply and of restoring the same and may agree to
43 indemnify such county, municipality or other person from all loss or
44 damage by reason of such stopping or restriction, including loss of
45 profits.

46 (cf: P.L.1946, c.138, s.26)

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

3 2. It is hereby declared to be in the public interest and to be the
4 policy of the State to foster and promote by all reasonable means;
5 the provision and distribution of an adequate supply of water for the
6 public and private uses of counties and municipalities and their
7 inhabitants, the collection, disposal and recycling of solid waste,
8 including sewage sludge, in an environmentally sound manner, the
9 relief of lands and waters in or bordering the State from pollution,
10 from domestic, industrial and other sources, including pollution
11 derived from chemical and hazardous wastes, and thus the reduction
12 and ultimate abatement of the menace to the public health resulting
13 from such pollution **[, and]** , the generation of hydroelectric
14 power , and the promotion of the public health and welfare through
15 appropriate management of stormwater. It is the purpose and object
16 of this act to further and implement such policy by:

17 (1) Authorizing counties, or municipalities either separately or
18 in combination with other municipalities, by means and through the
19 agency of a municipal authority, to acquire, construct, maintain,
20 operate or improve works for the accumulation, supply or
21 distribution of water, works for the collection, treatment, recycling,
22 and disposal of solid wastes, works for the collection, treatment,
23 purification or disposal of sewage or other wastes, works for the
24 collection, storage, treatment, or disposal of stormwater, and works
25 for the generation of hydroelectric power , or to contract with
26 private firms for the operation or improvement of works for the
27 collection, storage, treatment, or disposal of stormwater;

28 (2) Authorizing service charges to occupants or owners of
29 property for direct or indirect connection with and the use, products
30 or services of such works, and providing for the establishment,
31 collection and enforcement of such charges;

32 (3) Creating as bodies corporate and politic municipal
33 authorities to have full responsibility and powers with respect to
34 such works and the establishment, collection, enforcement, use and
35 disposition of all such service charges;

36 (4) roviding for the financing of such works, for the issuance of
37 bonds therefor, and for the payment and security of such bonds; and

38 (5) In general, granting to counties and municipalities and to
39 such municipal authorities discretionary powers to provide for
40 utility services designed to provide or distribute such a supply of
41 water, to recycle or dispose of solid waste, to relieve pollution of
42 such waters in or bordering the State , or to manage stormwater, at
43 the expense of the users of such services or of counties or
44 municipalities or other persons contracting for or with respect to the
45 same or to generate hydroelectric power.

46 It is further declared that the acquisition, construction, operation,
47 and maintenance of stormwater management systems are essential
48 to the goals of protecting and improving the State's water quality,

1 and are necessary to prevent and abate nonpoint sources of
2 pollution, minimize stormwater runoff, control flooding, and
3 enhance groundwater recharge.

4 (cf: P.L.1980, c.34, s.2)

5

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

8 3. As used in **【this act】** P.L.1957, c.183 (C.40:14B-1 et seq.),
9 unless a different meaning clearly appears from the context:

10 (1) "Municipality" shall mean any city of any class, any
11 borough, village, town, township, or any other municipality other
12 than a county or a school district, and except when used in section
13 4, 5, 6, 11, 12, 13, 42 or 45 of **【this act】** P.L.1957, c.183
14 (C.40:14B-4, C.40:14B-5, C.40:14B-6, C.40:14B-11, C.40:14B-12,
15 C.40:14B-13, C.40:14B-42, and C.40:14B-45), any agency thereof
16 or any two or more thereof acting jointly or any joint meeting or
17 other agency of any two or more thereof;

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

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

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

31 (5) "Municipal authority," "authority," or "water reclamation
32 authority" shall mean a public body created or organized pursuant
33 to section 4, 5 or 6 of **【this act】** P.L.1957, c.183 (C.40:14B-4,
34 C.40:14B-5, and C.40:14B-6) and shall include a municipal utilities
35 authority created by one or more municipalities and a county
36 utilities authority created by a county;

37 (6) Subject to the exceptions provided in section 10, 11 or 12 of
38 **【this act】** P.L.1957, c.183 (C.40:14B-10, C.40:14B-11, and
39 C.40:14B-12), "district" shall mean the area within the territorial
40 boundaries of the county, or of the municipality or municipalities,
41 which created or joined in or caused the creation or organization of
42 a municipal authority;

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

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

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 management of stormwater, or the collection, treatment,
23 purification or disposal in a sanitary manner of any sewage, liquid
24 or solid wastes, night soil or industrial wastes;

25 (10) "Utility system" shall mean a water system, solid waste
26 system, sewerage system, stormwater management system, or a
27 hydroelectric system or any combination of such systems, acquired,
28 constructed or operated or to be acquired, constructed or operated
29 by a municipal authority or by any person to whom a municipal
30 authority has extended credit 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, stormwater, 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 leachate 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】** P.L.1957, c.183 (C.40:14B-1 et seq.);

39 (19) "Service charges" shall mean water service charges, solid
40 waste service charges, sewer service charges, stormwater service
41 charges, hydroelectric service charges or any combination of such
42 charges, as said terms are defined in **【section 21 or 22 of this act or**
43 **in section 7 of this amendatory and supplementary act】** section 21
44 or 22 of P.L.1957, c.183 (C.40:14B-21 and C.40:14B-22), section
45 15 of P.L.1977, c.384 (C.40:14B-22.1), section 13 of P.L. _____, c.
46 (C. _____) (pending before the Legislature as this bill), or section 7
47 of P.L.1980, c.34 (C.40:14B-21.1);

1 (20) "Compensating reservoir" shall mean the structures,
2 facilities and appurtenances for the impounding, transportation and
3 release of water for the replenishment in periods of drought or at
4 other necessary times of all or a part of waters in or bordering the
5 State diverted into a utility system operated by a municipal
6 authority;

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

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

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

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

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

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

43 (27) "Recycling" shall mean the separation, collection,
44 processing or recovery of metals, glass, paper, solid waste and other
45 materials for reuse or for energy production and shall include
46 resource recovery;

47 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
48 generated from a municipal, industrial or other sewage treatment

1 plant, water supply treatment plant, or air pollution control facility,
2 or any other such waste having similar characteristics and effects;
3 "sludge" shall not include effluent;

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

13 (30) "Solid waste system" shall mean and include the plants,
14 structures and other real and personal property acquired,
15 constructed or operated or to be acquired, constructed or operated
16 by an authority or by any person to whom a municipal authority has
17 extended credit for this purpose pursuant to the provisions of **[this**
18 **act]** P.L.1957, c.183 (C.40:14B-1 et seq.), including transfer
19 stations, incinerators, recycling facilities, including facilities for the
20 generation, transmission and distribution of energy derived from the
21 processing of solid waste, sanitary landfill facilities or other
22 property or plants for the collection, recycling or disposal of solid
23 waste and all vehicles, equipment and other real and personal
24 property and rights thereon and appurtenances necessary or useful
25 and convenient for the collection, recycling, or disposal of solid
26 waste in a sanitary manner;

27 (31) "Hydroelectric system" shall mean the plants, structures and
28 other real and personal property acquired, constructed or operated
29 or to be acquired, constructed or operated by an authority pursuant
30 to the provisions of **[this act]** P.L.1957, c.183 (C.40:14B-1 et seq.),
31 including all that which is necessary or useful and convenient for
32 the generation, transmission and sale of hydroelectric power at
33 wholesale;

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

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

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

43 (35) "Alternative electrical energy system" shall mean any
44 system which uses alternative electrical energy to provide all or a
45 portion of the electricity for the heating, cooling, or general
46 electrical energy needs of a building;

47 (36) "Pilot county" shall mean a county of the second class
48 having a population between 280,000 and 290,000, a population

1 between 510,000 and 520,000, and a population between 530,000
2 and 540,000 according to the 2010 federal decennial census; **[and]**

3 (37) "Pilot county utilities authority" shall mean a county
4 utilities authority in a county designated as a pilot county;

5 (38) "Stormwater" shall mean water resulting from precipitation
6 that: (a) runs off of the land's surface; (b) is transmitted to the
7 subsurface; (c) is captured by separate storm sewers or other
8 sewerage or drainage facilities; or (d) is conveyed by snow removal
9 equipment; and

10 (39) "Stormwater management system" shall mean any
11 equipment, plant, structures, machinery, apparatus, management
12 practices, design practices, planning activities, or land, or any
13 combination thereof, acquired, used, constructed, implemented, or
14 operated to convey stormwater, control or reduce stormwater runoff
15 and associated pollutants or flooding, induce or control the
16 infiltration of groundwater recharge of stormwater, or eliminate
17 illicit or illegal nonstormwater discharges into stormwater
18 conveyances.

19 (cf: P.L.2013, c.190, s.3)

20

21 10. Section 6 of P.L.1957, c.183 (C.40:14B-6) is amended to
22 read as follows:

23 6. a. The governing body of any municipality which shall have
24 created a sewerage authority may, by ordinance duly adopted,
25 provide and determine that said sewerage authority shall be
26 reorganized as a municipal authority and thereupon and thereby
27 cause said sewerage authority to be organized as a public body
28 corporate and politic existing under and by virtue of **[this act]**
29 P.L.1957, c.183 (C.40:14B-1 et seq.).

30 b. In any county which has created a sewerage authority or a
31 county sewer authority or authorities, each such authority shall be
32 reorganized as a county utilities authority and shall be continued as
33 a public body corporate and politic existing under and by virtue of
34 the municipal authorities law, P.L.1957, c.183 (C.40:14B-1 et seq.).
35 The governing body of any county wherein a sewerage authority or
36 a county sewer authority or authorities was reorganized pursuant to
37 this section shall record such reorganization by resolution and file
38 such resolution with the Secretary of State pursuant to section 7 of
39 **[this act]** P.L.1957, c.183 (C.40:14B-7).

40 c. No authority reorganized pursuant to this section shall
41 acquire, construct, maintain, operate or improve a water system, a
42 solid waste system, a stormwater management system, or a
43 hydroelectric system until such time as the governing body
44 authorizes such action, by ordinance in the case of a municipality,
45 or by resolution in the case of a county.

46 d. Said body shall consist of the members of said sewerage
47 authority or of said county sewer authority holding office at the
48 time of such organization, together with successors in such

1 membership appointed as if said sewerage authority or county
2 sewer authority had originally been created pursuant to section 4 of
3 **【this act】** P.L.1957, c.183 (C.40:14B-4), and, upon the passage of
4 **【this amendatory and supplementary act】** P.L.1980, c.34 or upon
5 the taking effect of such ordinance and the filing of a certified copy
6 thereof as in section 7 of **【this act】** P.L.1957, c.183 (C.40:14B-7)
7 provided, said body shall constitute a municipal authority
8 contemplated and provided for in **【this act】** P.L.1957, c.183
9 (C.40:14B-1 et seq.) and an agency and instrumentality of said
10 municipality or county. Said body as such municipal authority shall
11 have all of the rights and powers granted and be subject to all the
12 duties and obligations imposed by **【this act】** P.L.1957, c.183
13 (C.40:14B-1 et seq.) and, subject to the rights (if any) of the
14 holders of any bonds or other obligations of said sewerage authority
15 or county sewer authority theretofore issued, said body shall be the
16 successor in all respects to said sewerage authority or county sewer
17 authority and forthwith succeed to all of the rights, property, assets
18 and franchises of said sewerage authority or county sewer authority
19 and the said bonds or other obligations of said sewerage authority
20 or county sewer authority shall be assumed by and become the
21 obligations of said municipal authority, and the property of said
22 sewerage authority or county sewer authority shall be vested in said
23 municipal authority. Said body may at any time, by resolution duly
24 adopted, change its corporate name and adopt the name and
25 style of "the . municipal utilities authority" with the name of said
26 municipality or county inserted.

27 (cf: P.L.1985, c.537, s.1)

28

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

31 19. (a) The purposes of every municipal authority shall be (1)
32 the provision and distribution of an adequate supply of water for the
33 public and private uses of the local units, and their inhabitants,
34 within the district, **【and】** (2) the relief of waters in or bordering the
35 State from pollution arising from causes within the district and the
36 relief of waters in, bordering or entering the district from pollution
37 or threatened pollution, and the consequent improvement of
38 conditions affecting the public health, (3) the provision of sewage
39 collection and disposal service within or without the district, **【and】**
40 (4) the provision of water supply and distribution service in such
41 areas without the district as are permitted by the provisions of **【this**
42 **act】** P.L.1957, c.183 (C.40:14B-1 et seq.), **【and】** (5) the provision
43 of solid waste services and facilities within or without the district in
44 a manner consistent with the "Solid Waste Management Act,"
45 P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the
46 solid waste management plans adopted by the solid waste
47 management districts created therein, **【and】** (6) the generation,

1 transmission and sale of hydroelectric power at wholesale, (7) the
2 operation and maintenance of utility systems owned by other
3 governments located within the district through contracts with said
4 governments, **and** (8) the provision of stormwater management
5 services within or without the district, and (9) in the case of an
6 authority that is a pilot county utilities authority, to fund
7 improvements to county infrastructure pursuant to the provisions of
8 subsection b. of section 40 of P.L.1957, c.183 (C.40:14B-40).

9 (b) Every municipal authority is hereby authorized, subject to
10 the limitations of **this act** P.L.1957, c.183 (C.40:14B-1 et seq.), to
11 acquire, in its own name but for the local unit or units, by purchase,
12 gift, condemnation or otherwise, lease as lessee, and,
13 notwithstanding the provisions of any charter, ordinance or
14 resolution of any county or municipality to the contrary, to
15 construct, maintain, operate and use such reservoirs, basins, dams,
16 canals, aqueducts, standpipes, conduits, pipelines, mains, pumping
17 and ventilating stations, treatment, purification and filtration plants
18 or works, trunk, intercepting and outlet sewers, water distribution
19 systems, waterworks, sources of water supply and wells , and
20 stormwater management systems at such places within or without
21 the district, such compensating reservoirs within a county in which
22 any part of the district lies, and such other plants, structures, boats
23 and conveyances, as in the judgment of the municipal authority will
24 provide an effective and satisfactory method for promoting
25 purposes of the municipal authority.

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

31 (d) Every municipal utilities authority is authorized to promote
32 the production and use of alternative electrical energy by
33 contracting with producers of alternative electrical energy for the
34 installation, construction, maintenance, repair, renewal, relocation,
35 or removal of alternative electrical energy systems, and for the
36 purchase of excess alternative electrical energy generated by a
37 producer of alternative electrical energy. Any purchase or sale of
38 alternative electrical energy where such energy is distributed using
39 the infrastructure of a public utility, as that term is defined in
40 R.S.48:2-13, shall include the payment by the purchaser of all
41 relevant non-bypassable charges as provided for in the "Electric
42 Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49
43 et al.).

44 (cf: P.L.2013, c.190, s.4)

45

46 12. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
47 read as follows:

1 20. Every municipal authority shall be a public body politic and
2 corporate constituting a political subdivision of the State
3 established as an instrumentality exercising public and essential
4 governmental functions to provide for the public health and welfare
5 and shall have perpetual succession and have the following powers:

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

8 (2) To sue and be sued;

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

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

15 (5) In the name of the municipal authority but for the local unit
16 or units and subject to the limitations of **【this act】** P.L.1957, c.183
17 (C.40:14B-1 et seq.), to acquire by purchase, gift, condemnation or
18 otherwise, or lease as lessee, real property and easements therein,
19 necessary or useful and convenient for the purposes of the
20 municipal authority, and subject to mortgages, deeds of trust or
21 other liens, or otherwise, and to hold, lease as lessor, and to use the
22 same, and to dispose of property so acquired no longer necessary
23 for the purposes of the municipal authority;

24 (6) To produce, develop, purchase, accumulate, distribute and
25 sell water and water services, facilities and products within or
26 without the district, provided that no water shall be sold at retail in
27 any municipality or county without the district unless the governing
28 body of such municipality or county shall have adopted a resolution
29 requesting the municipal authority to sell water at retail in such
30 municipality or county, and the board of public utility
31 commissioners shall have approved such resolution as necessary
32 and proper for the public convenience;

33 (7) To provide for and secure the payment of any bonds and the
34 rights of the holders thereof, and to purchase, hold and dispose of
35 any bonds;

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

41 (9) To enter on any lands, waters or premises for the purpose of
42 making surveys, borings, soundings and examinations for the
43 purposes of the municipal authority, and whenever the operation of
44 a septic tank or other component of an on-site wastewater system
45 shall result in the creation of pollution or contamination source on
46 private property such that under the provisions of R.S.26:3-49, a
47 local board of health would have the authority to notify the owner
48 and require said owner to abate the same, representatives of an

1 authority shall have the power to enter, at all reasonable times, any
2 premises on which such pollution or contamination source shall
3 exist, for the purpose of inspecting, rehabilitating, securing samples
4 of any discharges, improving, repairing, replacing, or upgrading
5 such septic tank or other component of an on-site wastewater
6 system;

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

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

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

29 (13) To do and perform any acts and things authorized by **【this**
30 **act】** P.L.1957, c.183 (C.40:14B-1 et seq.) under, through or by
31 means of its own officers, agents and employees, or by contracts
32 with any person;

33 (14) To enter into any and all contracts, execute any and all
34 instruments, and do and perform any and all acts or things
35 necessary, convenient or desirable for the purposes of the municipal
36 authority or to carry out any power expressly given in **【this act】**
37 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to the "Local Public
38 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

39 (15) To extend credit or make loans to any person for the
40 planning, designing, acquiring, constructing, reconstructing,
41 improving, equipping, furnishing, and operating by that person of
42 any part of a solid waste system, stormwater management system,
43 sewage treatment system, wastewater treatment or collection system
44 for the provision of services and facilities within or without the
45 district, which in the case of a solid waste system shall be in a
46 manner consistent with the "Solid Waste Management Act,"
47 P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the
48 solid waste management plans adopted by the solid waste

1 management districts created therein. The credits or loans may be
2 secured by loan and security agreements, mortgages, leases and any
3 other instruments, upon such terms as the authority shall deem
4 reasonable, including provision for the establishment and
5 maintenance of reserve and insurance funds, and to require the
6 inclusion in any mortgage, lease, contract, loan and security
7 agreement or other instrument, provisions for the construction, use,
8 operation and maintenance and financing of that part of the
9 aforementioned systems as the authority may deem necessary or
10 desirable;

11 (16) Upon the request of a customer: (i) to offer the customer the
12 ability to receive or access, in electronic format, any periodic bill
13 for service sent by the municipal authority to its customers and any
14 additional information sent by the municipal authority to its
15 customers as required by law, provided that any notice of
16 disconnection, discontinuance or termination of service shall be
17 sent to a customer in written form at the customer's legal mailing
18 address in addition to being sent or being made available in
19 electronic format; and (ii) to provide the customer the option of
20 paying any such periodic bill via electronic means; and

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

25 (cf: P.L.2013, c.190, s.5)

26

27 13. (New section) a. Every municipal authority is hereby
28 authorized to charge and collect rents, rates, fees, or other charges
29 for stormwater management on any owner or occupant, or both, of
30 any real property situated in a constituent municipality to be
31 determined in a manner consistent with the stormwater utility
32 guidance manual created by the Department of Environmental
33 Protection pursuant to section 24 of P.L. , c. (C.) (pending
34 before the Legislature as this bill). The owner of any real property
35 shall be liable for and shall pay the stormwater service charges to
36 the municipal authority at the time when and place where these
37 charges are due and payable. The rents, rates, fees, and charges
38 shall be determined in a manner consistent with the stormwater
39 utility guidance manual created by the Department of
40 Environmental Protection pursuant to section 24 of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42 b. Any stormwater service charge imposed pursuant to
43 subsection a. of this section shall be calculated in a manner
44 consistent with the guidance provided in the stormwater utility
45 guidance manual created by the Department of Environmental
46 Protection pursuant to section 24 of P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 14. Section 24 of P.L.1957, c.183 (C.40:14B-24) is amended to
2 read as follows:

3 24. a. Any local unit shall have power, in the discretion of its
4 governing body, to appropriate moneys for the purposes of the
5 municipal authority, and to loan or donate such moneys to the
6 municipal authority in such installments and upon such terms as
7 may be agreed upon between such local unit and the municipal
8 authority.

9 b. Subject to section 61 of **[this act (C. 40:14B-60)]** P.L.1957,
10 c.183 (C.40:14B-61), any local unit shall have the power to
11 authorize as a general improvement or, in the case of a local unit
12 which is a municipality, as a local improvement the construction
13 and financing of any facilities for the collection, storage, treatment
14 and disposal of sewage or stormwater or for the collection,
15 recycling or disposal of solid waste within the district arising within
16 a district, or any facilities for the distribution of water within a
17 district. Subject to the consent and approval of the municipal
18 authority, such facilities may be operated by the local unit and the
19 local unit may fix rates and charges for the use thereof, in addition
20 to the payment of any special assessments levied by a municipality
21 against lands and real estate specially benefited by such
22 improvements. As provided in section 48 of **[this act]** P.L.1957,
23 c.183 (C.40:14B-48), such facilities may be acquired and operated
24 by the municipal authority as a part of the utility system,
25 notwithstanding that special assessments may be or may have been
26 levied for such improvements by a municipality.

27 (cf: P.L.1977, c.384, s.11)

28

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

31 44. In the event that a sewer service charge or stormwater
32 service charge of any municipal authority with regard to any parcel
33 of real property shall not be paid as and when due, the municipal
34 authority may, in accordance with section 57 of **[this act]** P.L.1957,
35 c.183 (C.40:14B-57), cause the supply of water to such parcel by
36 any county, municipality or other person to be stopped or restricted
37 until such sewer service charge or stormwater service charge and
38 any subsequent sewer service charge or stormwater service charge
39 with regard to such parcel and all interest accrued thereon shall be
40 fully paid to the municipal authority. If for any reason such supply
41 of water shall not be promptly stopped or restricted as required by
42 section 57 of **[this act]** P.L.1957, c.183 (C.40:14B-57), the
43 municipal authority may itself shut off or restrict such supply and,
44 for that purpose, may enter on any lands, waters or premises of any
45 county, municipality or other person. Such supply of water to such
46 parcel shall, notwithstanding the provisions of this section, be
47 restored or increased if the **[State]** Department of Health, upon

1 application of the local board of health or health officer of the
2 municipality where such parcel is situate, shall after public hearing
3 find and shall certify to the municipal authority that the continuance
4 of such stopping or restriction of such supply of water endangers
5 the health of the public in such municipality.

6 (cf: P.L.1957, c.183, s.44)

7

8 16. Section 48 of P.L.1957, c.183 (C.40:14B-48) is amended to
9 read as follows:

10 Any county, by resolution of its governing body, or any
11 municipality, by ordinance of its governing body, or any other
12 person is hereby empowered, without any referendum, to sell, lease,
13 lend, grant or convey to any municipal authority, or to permit any
14 municipal authority to use, maintain or operate as part of the utility
15 system, any real or personal property owned by it, including all or
16 any part of any water supply, water distribution, stormwater
17 management, or sewerage facilities, which may be necessary or
18 useful and convenient for the purposes of the municipal authority
19 and accepted by the municipal authority. Any such sale, lease,
20 loan, grant, conveyance or permit may be made with or without
21 consideration and for a specified or an unlimited period of time and
22 under any agreement and on any terms and conditions which may
23 be approved by such county, municipality or other person and
24 which may be agreed to by the municipal authority in conformity
25 with its contracts with the holders of any bonds. Subject to any
26 such contracts with holders of bonds, the municipal authority may
27 enter into and perform any and all agreements with respect to
28 property so accepted by it, including agreements for the assumption
29 of principal or interest or both of indebtedness of such county,
30 municipality or other person or of any mortgage or lien existing
31 with respect to such property or for the operation and maintenance
32 of such property as part of the utility system.

33 (cf: P.L.1957, c.183, s.48)

34

35 17. Section 49 of P.L.1957, c.183 (C.40:14B-49) is amended to
36 read as follows:

37 49. Any municipal authority for the carrying out and
38 effectuation of its purposes, and (a) any of the local units (b) any
39 other municipality whether within or without the district and (c) any
40 other municipal authority, any sewerage authority or any other
41 public body of the State empowered to treat or dispose of sewage or
42 solid waste (all such local units, municipalities, other municipal
43 authorities, sewerage authorities and other bodies being hereinafter
44 referred to individually as a "governmental unit") for fostering the
45 relief of waters in, bordering or entering the territorial area of the
46 governmental unit from pollution or threatened pollution or
47 assisting the municipal authority in carrying out and effectuating its
48 purposes, may enter into a contract or contracts providing for or

1 relating to the collection, storage, treatment and disposal of
2 sewage, stormwater or solid waste originating in the district or
3 received by the municipal authority, or originating in the territorial
4 area of or collected by the governmental unit, by means of the
5 sewerage, stormwater management or solid waste system or any
6 sewerage, stormwater management or solid waste facilities of the
7 governmental unit or both, and the cost and expense of such
8 collection, storage, treatment and disposal, or may enter into a
9 contract with a private firm for the operation or improvement of a
10 stormwater management system for the collection, treatment or
11 disposal of stormwater, and the cost and expense of such collection,
12 treatment and disposal. Any municipal authority for the carrying out
13 and effectuation of its purposes, and (a) any of the local units (b)
14 any other municipality whether within or without the district and (c)
15 any other municipal authority, any sewerage authority or any other
16 public body of the State empowered to sell and supply water (all
17 such local units, municipalities, other municipal authorities,
18 sewerage authorities and other bodies being hereinafter referred to
19 individually as a "governmental unit") for fostering the provision
20 and distribution of an adequate supply of water within the territorial
21 area of the governmental unit or assisting the municipal authority in
22 carrying out and effectuating its purposes may enter into a contract
23 or contracts providing for or relating to the sale or supplying of
24 water to such municipal authority or to the governmental unit or to
25 persons or properties within the district or the governmental unit,
26 and the cost and expense of such sale or supplying of water. Any
27 such contract may provide for the payment to the municipal
28 authority by the governmental unit annually or otherwise of such
29 sum or sums of money, computed at fixed amounts or by a formula
30 based on any factors or other matters described in section 21 [or
31 section 22 of this act] of P.L.1957, c.183 (C.40:14B-21), section 22
32 of P.L.1957, c.183 (C.40:14B-22), or section 13 of
33 P.L. , c. (C.) (pending before the Legislature as this bill) or
34 in any other manner, as said contract or contracts may provide, and
35 may provide that the sum or sums so payable to the municipal
36 authority shall be in lieu of all or any part of the service charges
37 which would otherwise be charged and collected by the municipal
38 authority with regard to persons or real property within the
39 territorial area of the governmental unit. Such contract or contracts
40 may also contain provisions as to the financing and payment of
41 expenses to be incurred by the municipal authority and determined
42 by it to be necessary for its purposes prior to the placing in
43 operation of a sewerage, stormwater management, solid waste or
44 water supply and distribution system and may provide for the
45 payment by the governmental unit to the municipal authority for
46 application to such expenses or indebtedness therefor such sum or
47 sums of money, computed as said contract or contracts may provide
48 and as the governing body (hereinafter described) of the

1 governmental unit shall, by virtue of its authorization of and entry
2 into said contract or contracts, determine to be necessary for the
3 purposes of the municipal authority. Every such contract shall be
4 authorized and entered into under and pursuant to a resolution
5 adopted by the authority in the case of municipal or other authority,
6 an ordinance of the governing body in the case of a municipality, a
7 resolution or ordinance of the governing body in the case of a
8 county, and, in the case of any other public body, a resolution of the
9 commission, council, board or body by whatever name it may be
10 known (in this section sometimes referred to as "governing body")
11 having charge of the finances of such public body, but the terms or
12 text of said contract need not be set forth in full or stated in any
13 such resolution or ordinance if the form of said contract is on file in
14 the office of the clerk or other recording officer of the governmental
15 unit or its governing body and the place in fact of such filing is
16 described in the resolution or ordinance. Any such contract may be
17 made with or without consideration and for a specified or an
18 unlimited time and on any terms and conditions which may be
19 approved by or on behalf of the governmental unit and which may
20 be agreed to by the municipal authority in conformity with its
21 contracts with the holders of any bonds, and shall be valid whether
22 or not an appropriation with respect thereto is made by the
23 governmental unit prior to authorization or execution thereof.
24 Every such governmental unit is hereby authorized and directed to
25 do and perform any and all acts or things necessary, convenient or
26 desirable to carry out and perform every such contract and to
27 provide for the payment or discharge of any obligation thereunder
28 in the same manner as other obligations of such governmental unit.
29 Subject to any such contracts with the holders of bonds, the
30 municipal authority is hereby authorized to do and perform any and
31 all acts or things necessary, convenient or desirable to carry out and
32 perform every such contract and, in accordance with any such
33 contract, to waive, modify, suspend or reduce the service charges
34 which would otherwise be charged and collected by the municipal
35 authority with regard to persons or real property within the
36 territorial area of the governmental unit, but nothing in this section
37 or any such contract shall prevent the municipal authority from
38 charging and collecting, as if such contract had not been made,
39 service charges with regard to such persons and real property
40 sufficient to meet any default or deficiency in any payments agreed
41 in such contract to be made by such governmental unit.

42 (cf: P.L.1979, c.86, s.14)

43

44 18. Section 54 of P.L.1957, c.183 (C.40:14B-54) is amended to
45 read as follows:

46 54. Each county, municipality and other public body shall
47 promptly pay to any municipal authority all service charges which
48 the municipal authority may charge to it, as owner or occupant of

1 any real property, in accordance with section 21 **【**or section 22 of
2 this act**】** of P.L.1957, c.183 (C.40:14B-21), section 22 of P.L.1957,
3 c.183 (C.40:14B-22), or section 13 of P.L. _____, c. _____
4 (pending before the Legislature as this bill), and shall provide for
5 the payment thereof in the same manner as other obligations of such
6 county, municipality or public body.
7 (cf: P.L.1957, c.183, s.54)
8

9 19. Section 57 of P.L.1957, c.183 (C.40:14B-57) is amended to
10 read as follows:

11 Each county and municipality owning or operating any system of
12 water distribution serving **【3】** three or more parcels of real property
13 in the district shall, and every other person owning or operating any
14 such system may and is hereby authorized to enter into and perform
15 a contract with the municipal authority that it will, upon request by
16 the municipal authority specifying a parcel of real property in the
17 district with regard to which a service charge under section 22 of
18 **【this act】** P.L.1957, c.183 (C.40:14B-22) or section 13 of P.L. _____, c.
19 (C. _____) (pending before the Legislature as this bill) is unpaid,
20 cause the supply of water from its system to such parcel of real
21 property to be stopped or restricted, as the municipal authority may
22 request, until such service charge and any subsequent service
23 charge with regard to such parcel and the interest accrued thereon
24 shall be fully paid or until the municipal authority directs otherwise.
25 No such county, municipality or other person shall be liable for any
26 loss, damage or other claim based on or arising out of the stopping
27 or restricting of such supply, and the municipal authority shall pay
28 the reasonable cost of so stopping or restricting such supply and of
29 restoring the same and may agree to indemnify such county,
30 municipality or other person from all loss or damage by reason of
31 such stopping or restriction, including loss of profits.
32 (cf: P.L.1957, c.183, s.57)
33

34 20. Section 60 of P.L.1957, c.183 (C.40:14B-60) is amended to
35 read as follows:

36 60. (a) No county, municipality or person shall discharge or
37 suffer to be discharged directly or indirectly into any waters in or
38 bordering a district any sewage which may or will cause or
39 contribute to the pollution of such waters; provided, that this
40 prohibition shall be applicable only to such part or parts of such
41 waters as are in an area of the district bounded and described in a
42 notice, inserted at least once in a newspaper published or circulating
43 in the district, to the effect that the municipal authority has
44 provided facilities reasonably sufficient in its opinion for the
45 treatment and disposal of sewage which by discharge into such
46 waters might cause or contribute to pollution of such waters, and
47 that pollution of such waters is forbidden by law. Such a notice

1 shall constitute prima facie evidence of the existence of facilities
2 sufficient for the treatment and disposal of all such sewage.

3 (b) No county, municipality or person shall discharge or suffer
4 to be discharged directly or indirectly into the sewage system , the
5 stormwater management system, or the solid waste system of any
6 municipal authority any matter or thing which is or may be
7 injurious or deleterious to such sewerage system , stormwater
8 management system, or solid waste system or to its efficient
9 operation.

10 (c) No county, municipality or person shall discharge or suffer
11 to be discharged directly or indirectly into the water system of any
12 municipal authority or on any lands or into any waters tributary to
13 such water system any matter or thing which is or may be injurious
14 or deleterious to such water system or to its efficient operation or
15 may or will cause or contribute to a danger to the health of the
16 public in the district.

17 (d) Any county, municipality or person may be restrained,
18 enjoined or otherwise prevented from violating or continuing the
19 violation of any provision of this section in a proceeding in lieu of
20 prerogative writ, or other appropriate proceeding, or in an action for
21 injunctive or other relief instituted by a municipal authority or by
22 any county prosecutor.

23 (e) No violation of any provision of this section shall be deemed
24 to have occurred by reason of the discharge of sewage from any
25 boat or vessel while afloat or on a marine railway in drydock.

26 (cf: P.L.1977, c.384, s.14)

27

28 21. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to
29 read as follows:

30 2. As used in **[this act]** P.L.1960, c.183 (C.40:37A-44 et seq.),
31 unless a different meaning clearly appears from the context:

32 (a) "Authority" shall mean a public body created pursuant to
33 **[this act]** P.L.1960, c.183 (C.40:37A-44 et seq.);

34 (b) "Bond resolution" shall have the meaning ascribed thereto in
35 section 17 of P.L.1960, c.183 (C.40:37A-60);

36 (c) "Bonds" shall mean bonds, notes or other obligations issued
37 pursuant to this act;

38 (d) "Construct" and "construction" shall connote and include
39 acts of clearance, demolition, construction, development or
40 redevelopment, reconstruction, replacement, extension,
41 improvement and betterment;

42 (e) "Cost" shall mean, in addition to the usual connotations
43 thereof, the cost of planning, acquisition or construction of all or
44 any part of any public facility or facilities of an authority and of all
45 or any property, rights, easements, privileges, agreements and
46 franchises deemed by the authority to be necessary or useful and
47 convenient therefor or in connection therewith and the cost of
48 retiring the present value of the unfunded accrued liability due and

1 owing by the authority, as calculated by the system actuary for a
2 date certain upon the request of the authority, for early retirement
3 incentive benefits granted by the authority pursuant to P.L.1991,
4 c.230 and P.L.1993, c.181, including interest or discount on bonds,
5 cost of issuance of bonds, architectural, engineering and inspection
6 costs and legal expenses, cost of financial, professional and other
7 estimates and advice, organization, administrative, operating and
8 other expenses of the authority prior to and during such acquisition
9 or construction, and all such other expenses as may be necessary or
10 incident to the financing, acquisition, construction and completion
11 of such public facility or facilities or part thereof and the placing of
12 the same fully in operation or the disposition of the same, and also
13 such provision or reserves for working capital, operating,
14 maintenance or replacement expenses or for payment or security of
15 principal of or interest on bonds during or after such acquisition or
16 construction as the authority may determine, and also
17 reimbursements to the authority or any governmental unit or person
18 of any moneys theretofore expended for the purposes of the
19 authority;

20 (f) The term "county" shall mean any county of any class of the
21 State and shall include, without limitation, the terms "the county"
22 and "beneficiary county" defined in **【this act】** P.L.1960, c.183
23 (C.40:37A-44 et seq.), and the term "the county" shall mean the
24 county which created an authority pursuant to **【this act】** P.L.1960,
25 c.183 (C.40:37A-44 et seq.);

26 (g) "Development project" shall mean any lands, structures, or
27 property or facilities acquired or constructed or to be acquired or
28 constructed by an authority for the purposes of the authority
29 described in subsection (e) of section 11 of P.L.1960, c.183
30 (C.40:37A-54);

31 (h) "Facility charges" shall have the meaning ascribed to said
32 term in section 14 of P.L.1960, c.183 (C.40:37A-57);

33 (i) "Facility revenues" shall have the meaning ascribed to said
34 term in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-
35 63);

36 (j) "Governing body" shall mean, in the case of a county, the
37 board of chosen freeholders, or in the case of a county operating
38 under article 3 or 5 of the "Optional County Charter Law,"
39 P.L.1972, c.154 (C.40:41A-1 et seq.) as defined thereunder, and, in
40 the case of a municipality, the commission, council, board or body,
41 by whatever name it may be known, having charge of the finances
42 of the municipality;

43 (k) "Governmental unit" shall mean the United States of
44 America or the State or any county or municipality or any
45 subdivision, department, agency, or instrumentality heretofore or
46 hereafter created, designated or established by or for the United
47 States of America or the State or any county or municipality;

1 (l) "Local bond law" shall mean chapter 2 of Title 40A,
2 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as
3 amended and supplemented;

4 (m) "Municipality" shall mean any city, borough, village, town,
5 or township of the State but not a county or a school district;

6 (n) "Person" shall mean any person, partnership, association,
7 corporation or entity other than a nation, state, county or
8 municipality or any subdivision, department, agency or
9 instrumentality thereof;

10 (o) "Project" shall have the meaning ascribed to said term in
11 section 17 of P.L.1960, c.183 (C.40:37A-60);

12 (p) "Public facility" shall mean any lands, structures, franchises,
13 equipment, or other property or facilities acquired, constructed,
14 owned, financed, or leased by the authority or any other
15 governmental unit or person to accomplish any of the purposes of
16 an authority authorized by section 11 of P.L.1960, c.183
17 (C.40:37A-54);

18 (q) "Real property" shall mean lands within or without the State,
19 above or below water, and improvements thereof or thereon, or any
20 riparian or other rights or interests therein;

21 (r) "Garbage and solid waste disposal system" shall mean the
22 plants, structures and other real and personal property acquired,
23 constructed or operated or to be acquired, constructed or operated
24 by a county improvement authority, including incinerators, sanitary
25 landfill facilities or other plants for the treatment and disposal of
26 garbage, solid waste and refuse matter and all other real and
27 personal property and rights therein and appurtenances necessary or
28 useful and convenient for the collection and treatment or disposal in
29 a sanitary manner of garbage, solid waste and refuse matter (but not
30 including sewage);

31 (s) "Garbage, solid waste or refuse matter" shall mean garbage,
32 refuse and other discarded materials resulting from industrial,
33 commercial and agricultural operations, and from domestic and
34 community activities, and shall include all other waste materials
35 including sludge, chemical waste, hazardous wastes and liquids,
36 except for liquids which are treated in public sewage treatment
37 plants and except for solid animal and vegetable wastes collected by
38 swine producers licensed by the **State** Department of Agriculture
39 to collect, prepare and feed such wastes to swine on their own
40 farms;

41 (t) "Blighted, deteriorated or deteriorating area" may include an
42 area determined heretofore by the municipality to be blighted in
43 accordance with the provisions of P.L.1949, c.187, repealed by
44 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which
45 are determined by the municipality, pursuant to the same procedures
46 as provided in said law, to be blighted, deteriorated or deteriorating
47 because of structures or improvements which are dilapidated or
48 characterized by disrepair, lack of ventilation or light or sanitary

1 facilities, faulty arrangement, location, or design, or other
2 unhealthful or unsafe conditions;

3 (u) "Redevelopment" may include planning, replanning,
4 conservation, rehabilitation, clearance, development and
5 redevelopment; and the construction and rehabilitation and
6 provision for construction and rehabilitation of residential,
7 commercial, industrial, public or other structures and the grant or
8 dedication or rededication of spaces as may be appropriate or
9 necessary in the interest of the general welfare for streets, parks,
10 playgrounds, or other public purposes including recreational and
11 other facilities incidental or appurtenant thereto, in accordance with
12 a redevelopment plan approved by the governing body of a
13 municipality;

14 (v) "Redevelopment plan" shall mean a plan as it exists from
15 time to time for the redevelopment of all or any part of a
16 redevelopment area, which plan shall be sufficiently complete to
17 indicate such land acquisition, demolition and removal of
18 structures, redevelopment, improvements, conservation or
19 rehabilitation as may be proposed to be carried out in the area of the
20 project, zoning and planning changes, if any, land uses, maximum
21 densities, building requirements, the plan's relationship to definite
22 local objectives respecting appropriate land uses, improved traffic,
23 public transportation, public utilities, recreational and community
24 facilities, and other public improvements and provision for
25 relocation of any residents and occupants to be displaced in a
26 manner which has been or is likely to be approved by the
27 Department of Community Affairs pursuant to the "Relocation
28 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and
29 the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.)
30 and rules and regulations pursuant thereto;

31 (w) "Redevelopment project" shall mean any undertakings and
32 activities for the elimination, and for the prevention of the
33 development or spread, of blighted, deteriorated, or deteriorating
34 areas and may involve any work or undertaking pursuant to a
35 redevelopment plan; such undertaking may include: (1) acquisition
36 of real property and demolition, removal or rehabilitation of
37 buildings and improvements thereon; (2) carrying out plans for a
38 program of voluntary repair and rehabilitation of buildings or other
39 improvements; and (3) installation, construction or reconstruction
40 of streets, utilities, parks, playgrounds or other improvements
41 necessary for carrying out the objectives of the redevelopment
42 project;

43 (x) "Redeveloper" shall mean any person or governmental unit
44 that shall enter into or propose to enter into a contract with an
45 authority for the redevelopment of an area or any part thereof under
46 the provisions of **【this act】** P.L.1960, c.183 (C.40:37A-44 et seq.);

47 (y) "Redevelopment area" shall mean an area of a municipality
48 which the governing body thereof finds is a blighted area or an area

1 in need of rehabilitation whose redevelopment is necessary to
2 effectuate the public purposes declared in **【this act】** P.L.1960,
3 c.183 (C.40:37A-44 et seq.). A redevelopment area may include
4 lands, buildings, or improvements which of themselves are not
5 detrimental to the public health, safety or welfare, but whose
6 inclusion is found necessary, with or without change in their
7 condition, for the effective redevelopment of the area of which they
8 are a part;

9 (z) "Sludge" shall mean any solid, semisolid, or liquid waste
10 generated from a municipal, industrial or other sewage treatment
11 plant, water supply treatment plant, or air pollution control facility,
12 or any other such waste having similar characteristics and effects,
13 but shall not include effluent **【; and】**

14 (aa) "Beneficiary county" shall mean any county that has not
15 created an authority pursuant to **【this act】** P.L.1960, c.183
16 (C.40:37A-44 et seq.);

17 (bb) "Stormwater" shall mean water resulting from precipitation
18 that: (1) runs off of the land's surface; (2) is transmitted to the
19 subsurface; (3) is captured by separate storm sewers or other
20 sewerage or drainage facilities; or (4) is conveyed by snow removal
21 equipment; and

22 (cc) "Stormwater management system" shall mean any
23 equipment, plant, structures, machinery, apparatus, management
24 practices, design practices, planning activities, or land, or any
25 combination thereof, acquired, used, constructed, implemented, or
26 operated to convey stormwater, control or reduce stormwater runoff
27 and associated pollutants or flooding, induce or control the
28 infiltration of groundwater recharge of stormwater, or eliminate
29 illicit or illegal nonstormwater discharges into stormwater
30 conveyances.

31 (cf: P.L.2002, c.42, s.6)

32

33 22. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
34 read as follows:

35 11. The purposes of every authority shall be (a) provision within
36 the county or any beneficiary county of public facilities for use by
37 the State, the county or any beneficiary county, or any municipality
38 in any such county, or any two or more or any subdivisions,
39 departments, agencies or instrumentalities of any of the foregoing
40 for any of their respective governmental purposes, (b) provision
41 within the county or any beneficiary county of public facilities for
42 use as convention halls, or the rehabilitation, improvement or
43 enlargement of any convention hall, including appropriate and
44 desirable appurtenances located within the convention hall or near,
45 adjacent to or over it within boundaries determined at the discretion
46 of the authority, including but not limited to office facilities,
47 commercial facilities, community service facilities, parking
48 facilities, hotel facilities and other facilities for the accommodation

1 and entertainment of tourists and visitors, (c) provision within the
2 county or any beneficiary county of structures, franchises,
3 equipment and facilities for operation of public transportation or for
4 terminal purposes, including development and improvement of port
5 terminal structures, facilities and equipment for public use in
6 counties in, along or through which a navigable river flows, (d)
7 provision within the county or any beneficiary county of structures
8 or other facilities used or operated by the authority or any
9 governmental unit in connection with, or relative to development
10 and improvement of, aviation for military or civilian purposes,
11 including research in connection therewith, and including structures
12 or other facilities for the accommodation of passengers, (e)
13 provision within the county or any beneficiary county of a public
14 facility for a combination of governmental and nongovernmental
15 uses; provided that not more than 50% of the usable space in any
16 such facility shall be made available for nongovernmental use under
17 a lease or other agreement by or with the authority, (f) acquisition
18 of any real property within the county or any beneficiary county,
19 with or without the improvements thereof or thereon or personal
20 property appurtenant or incidental thereto, from the United States of
21 America or any department, agency or instrumentality heretofore or
22 hereafter created, designated or established by or for it, and the
23 clearance, development or redevelopment, improvement, use or
24 disposition of the acquired lands and premises in accordance with
25 the provisions and for the purposes stated in **【this act】** P.L.1960,
26 c.183 (C.40:37A-44 et seq.), including the construction,
27 reconstruction, demolition, rehabilitation, conversion, repair or
28 alteration of improvements on or to said lands and premises, and
29 structures and facilities incidental to the foregoing as may be
30 necessary, convenient or desirable, (g) acquisition, construction,
31 maintenance and operation of garbage and solid waste disposal
32 systems for the purpose of collecting and disposing of garbage,
33 solid waste or refuse matter, whether owned or operated by any
34 person, the authority or any other governmental unit, within or
35 without the county or any beneficiary county, (h) the improvement,
36 furtherance and promotion of the tourist industries and recreational
37 attractiveness of the county or any beneficiary county through the
38 planning, acquisition, construction, improvement, maintenance and
39 operation of facilities for the recreation and entertainment of the
40 public, which facilities may include, without being limited to, a
41 center for the performing and visual arts, (i) provision of loans and
42 other financial assistance and technical assistance for the
43 construction, reconstruction, demolition, rehabilitation, conversion,
44 repair or alteration of buildings or facilities designed to provide
45 decent, safe and sanitary dwelling units for persons of low and
46 moderate income in need of housing, including the acquisition of
47 land, equipment or other real or personal properties which the
48 authority determines to be necessary, convenient or desirable

1 appurtenances, all in accordance with the provisions of **[this act]**
2 P.L.1960, c.183 (C.40:37A-44 et seq.), as amended and
3 supplemented, (j) planning, initiating and carrying out
4 redevelopment projects for the elimination, and for the prevention
5 of the development or spread of blighted, deteriorated or
6 deteriorating areas and the disposition, for uses in accordance with
7 the objectives of the redevelopment project, of any property or part
8 thereof acquired in the area of such project, (k) acquisition,
9 construction, operation, and maintenance of stormwater
10 management systems, (l) any combination or combinations of the
11 foregoing or following, and **[(l)] (m)** subject to the prior approval
12 of the Local Finance Board, the planning, design, acquisition,
13 construction, improvement, renovation, installation, maintenance
14 and operation of facilities or any other type of real or personal
15 property within the county for a corporation or other person
16 organized for any one or more of the purposes described in
17 subsection a. of N.J.S.15A:2-1 except those facilities or any other
18 type of real or personal property which can be financed pursuant to
19 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A
20 county improvement authority shall also have as its purpose the
21 pooling of loans for any local governmental units within the county
22 or any beneficiary county that are refunding bonds in order to
23 achieve more favorable interest rates and terms for those local
24 governmental units.
25 (cf: P.L.2002, c.42, s.8)

26
27 23. Section 14 of P.L.1960, c.183 (C.40:37A-57) is amended to
28 read as follows:

29 14. Every authority is hereby authorized to charge and collect
30 tolls, rents, rates, fares, fees or other charges (**[in this act]**
31 sometimes referred to as "facility charges") in connection with, or
32 for the use or services of, or otherwise relating to, any public
33 facility or other property owned, leased or controlled by the
34 authority. If the public facility is a system of solid waste disposal,
35 including, but not limited to, a resource recovery facility, recycling
36 plant or transfer station owned, leased or controlled by the
37 authority, the authority may charge and collect in connection with
38 that system from any governmental unit included within the
39 jurisdiction of the authority or which contracts for service with that
40 authority or from any owner or occupant of any real property
41 situated in a constituent municipality or in a municipality which
42 contracts for service with that authority. **[Such]** If the public
43 facility or other property is part of a stormwater management
44 system, the authority may charge and collect fees in connection
45 with that system from any owner or occupant, or both, of any real
46 property situated in a constituent municipality or in a municipality
47 which contracts for service with that authority, including property
48 owned by any governmental unit, calculated in a manner consistent

1 with the guidance provided in the stormwater utility guidance
2 manual created by the Department of Environmental Protection
3 pursuant to section 24 of P.L. , c. (C.) (pending before the
4 Legislature as this bill). The facility charges may be charged to and
5 collected from any governmental unit or person and **such** the
6 governmental unit or person shall be liable for and shall pay **such**
7 the facility charges to the authority at the time when and place
8 where **such** the facility charges are due and payable.

9 (cf: P.L.1988, c.140, s.1)

10
11 24. (New section) a. The Department of Environmental
12 Protection shall create a stormwater utility guidance manual. The
13 stormwater utility guidance manual shall provide guidance to a
14 municipality, county, or authority seeking to establish, provide, and
15 maintain a stormwater management system pursuant to any relevant
16 authorizing law regarding rate structure and stormwater
17 management system implementation. The rate structure guidance
18 provided in the stormwater utility guidance manual shall provide
19 the means and methods of computing rates for stormwater utility
20 charges and shall be directly related to the specific costs of the
21 stormwater management system. Adoption of the stormwater
22 utility guidance manual, or any revisions thereto, shall not be
23 subject to the notice and publication requirements of the
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
25 seq.).

26 b. Five percent of the annual fees collected by stormwater
27 utilities as stormwater utility charges shall be transferred to the
28 department to fund program planning, implementation, and
29 coordination activities related to stormwater utilities and
30 stormwater management systems.

31 c. The Department of Environmental Protection shall adopt,
32 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
33 (C.52:14B-1 et seq.), any rules and regulations necessary to
34 implement P.L. , c. (C.) (pending before the Legislature as
35 this bill).

36
37 25. (New section) a. The governing body of any municipality
38 may by ordinance establish, provide, and maintain a stormwater
39 utility for the purpose of creating a stormwater management system
40 to manage the stormwater runoff of the municipality.

41 b. Every municipality that creates and operates a municipal
42 stormwater utility is hereby authorized to charge and collect rents,
43 rates, fees, or other charges for direct or indirect use or services of
44 the stormwater management system. The stormwater service
45 charges may be charged to and collected from the owner or
46 occupant, or both, of any real property. The owner of any real
47 property shall be liable for and shall pay these charges to the
48 municipal stormwater utility at the time when and place where such

1 stormwater service charges are due and payable. The rents, rates,
2 fees, and charges shall be determined in a manner consistent with
3 the guidance provided in the stormwater utility guidance manual
4 created by the Department of Environmental Protection pursuant to
5 section 24 of P.L. , c. (C.) (pending before the Legislature
6 as this bill). Any rent, rate, fee, or charge assessed pursuant to this
7 subsection shall be calculated in a manner consistent with the
8 guidelines established in the stormwater utility guidance manual
9 created pursuant to section 24 of P.L. , c. (C.) (pending
10 before the Legislature as this bill).

11 c. Funds received pursuant to the provisions of this section
12 shall be deposited with the public funds of the municipality and
13 shall be budgeted, expended, and accounted for in accordance with
14 the provisions of the Local Budget Law (N.J.S.40A:4-1 et seq.).

15 d. The governing body of a municipality exercising the powers
16 granted by this section is authorized to provide by resolution or
17 ordinance, as the case may be, at one time, or from time to time, for
18 the issuance of general obligation bonds of the municipality for the
19 purpose of paying all or any part of the cost of a stormwater utility
20 pursuant to this section. The bonds of each issue shall be issued
21 pursuant to the provisions of the Local Bond Law (N.J.S.40A:2-1 et
22 seq.).

23 e. As used in this section:

24 "Stormwater" means water resulting from precipitation that: (1)
25 runs off of the land's surface; (2) is transmitted to the subsurface;
26 (3) is captured by separate storm sewers or other sewerage or
27 drainage facilities; or (4) is conveyed by snow removal equipment;
28 and

29 "Stormwater management system" means any equipment, plant,
30 structures, machinery, apparatus, management practices, design
31 practices, planning activities, or land, or any combination thereof,
32 acquired, used, constructed, implemented, or operated to convey
33 stormwater, control or reduce stormwater runoff and associated
34 pollutants or flooding, induce or control the infiltration of
35 groundwater recharge of stormwater, or eliminate illicit or illegal
36 nonstormwater discharges into stormwater conveyances.

37

38 26. (New section) a. Any municipality, county, authority,
39 utility, utilities authority, or other entity managing both a
40 stormwater management system and a sewerage system under
41 authority granted pursuant to the "sewerage authorities law,"
42 P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county
43 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), the
44 "county improvement authorities law," P.L.1960, c.183 (C.40:37A-
45 44 et seq.), the "Municipal and County Sewerage Act," P.L.1991,
46 c.53 (C.40A:26A-1 et seq.), the "Municipal and County Flood
47 Control Financing Act," P.L.1987, c.179 (C.40A:27-1 et seq.), or
48 P.L. , c. (C.) (pending before the Legislature as this bill),

1 shall maintain separate budgets, keep separate books and records,
2 and incur separate costs for each such system.

3 b. As used in this section:

4 "Stormwater" means water resulting from precipitation that: (1)
5 runs off of the land's surface; (2) is transmitted to the subsurface;
6 (3) is captured by separate storm sewers or other sewerage or
7 drainage facilities; or (4) is conveyed by snow removal equipment.

8 "Stormwater management system" means any equipment, plant,
9 structures, machinery, apparatus, management practices, design
10 practices, planning activities, or land, or any combination thereof,
11 acquired, used, constructed, implemented, or operated to convey
12 stormwater, control or reduce stormwater runoff and associated
13 pollutants or flooding, induce or control the infiltration of
14 groundwater recharge of stormwater, or eliminate illicit or illegal
15 nonstormwater discharges into stormwater conveyances.

16

17 27. (New section) a. Whenever a stormwater management
18 system is constructed by any person in accordance with standards
19 established therefor by a municipality, county, authority, utility,
20 utilities authority, or other entity authorized to manage a stormwater
21 management system pursuant to the "sewerage authorities law,"
22 P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county
23 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), the
24 "county improvement authorities law," P.L.1960, c.183 (C.40:37A-
25 44 et seq.), the "Municipal and County Sewerage Act," P.L.1991,
26 c.53 (C.40A:26A-1 et seq.), the "Municipal and County Flood
27 Control Financing Act," P.L.1987, c.179 (C.40A:27-1 et seq.), or
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 the municipality, county, authority, utility, utilities authority, or
30 other entity may accept the dedication of, and assume maintenance
31 responsibilities for, the stormwater management system in
32 accordance with the same procedures established and used for
33 sewer or water facilities.

34 b. As used in this section:

35 "Stormwater" means water resulting from precipitation that: (1)
36 runs off of the land's surface; (2) is transmitted to the subsurface;
37 (3) is captured by separate storm sewers or other sewerage or
38 drainage facilities; or (4) is conveyed by snow removal equipment.

39 "Stormwater management system" means any equipment, plant,
40 structures, machinery, apparatus, management practices, design
41 practices, planning activities, or land, or any combination thereof,
42 acquired, used, constructed, implemented, or operated to convey
43 stormwater, control or reduce stormwater runoff and associated
44 pollutants or flooding, induce or control the infiltration of
45 groundwater recharge of stormwater, or eliminate illicit or illegal
46 nonstormwater discharges into stormwater conveyances.

1 28. N.J.S.40A:2-2 is amended to read as follows:

2 40A:2-2. The following words as used in this chapter shall
3 have the following meanings, unless the context clearly indicates a
4 different meaning:

5 **["bond]** "Bond ordinance" means an ordinance adopted as
6 herein provided by the governing body of a local unit authorizing
7 obligations;

8 **["equalized]** "Equalized valuation basis" of a local unit means
9 the average for the last **[3]** three preceding years, of the sum total
10 of

11 **[a.]** (1) the aggregate equalized valuation of real property
12 together with improvements, as certified in the Table of Equalized
13 Valuations by the Director of the Division of Taxation in the
14 Department of the Treasury, on October 1 of each year, pursuant to
15 chapter 86 of the laws of 1954, and

16 **[b.]** (2) the assessed valuation of Class II railroad property as
17 set forth in the table of equalized valuations referred to in **["a"]**
18 (1) above.

19 **["governing]** "Governing body" means the board of chosen
20 freeholders of a county, or the commission, council, board or body
21 having control of the finances of a municipality;

22 **["local]** "local improvement" means an improvement or
23 property, part or all of the cost of which has been, or is to be
24 specially assessed on property;

25 **["obligations"]** "Obligations" means bonds or notes of a local
26 unit;

27 **["refunding]** "Refunding bond ordinance" means an ordinance
28 adopted by the governing body of the local unit authorizing
29 refunding bonds;

30 "Stormwater" means water resulting from precipitation that: (1)
31 runs off of the land's surface; (2) is transmitted to the subsurface;
32 (3) is captured by separate storm sewers or other sewerage or
33 drainage facilities; or (4) is conveyed by snow removal equipment;
34 and

35 "Stormwater management system" means any equipment, plant,
36 structures, machinery, apparatus, management practices, design
37 practices, planning activities, or land, or any combination thereof,
38 acquired, used, constructed, implemented, or operated to convey
39 stormwater, control or reduce stormwater runoff and associated
40 pollutants or flooding, induce or control the infiltration of
41 groundwater recharge of stormwater, or eliminate illicit or illegal
42 nonstormwater discharges into stormwater conveyances.

43 (cf: P.L.1964, c.72, s.1)

44

45 29. N.J.S.40A:2-15 is amended to read as follows:

46 40A:2-15. Any bond ordinance to finance any cost or expense of
47 a municipal public utility, or any ordinance amendatory thereof or

1 supplemental thereto adopted prior to the issuance of obligations,
2 may contain the following covenants with the holders of such
3 obligations which shall be observed and performed by the local
4 unit, notwithstanding the provisions of this or any other law:

5 a. As to the use and disposition of revenues derived or to be
6 derived from the operation of the whole or any part of any
7 municipal public utility, including any improvements thereto or
8 extensions thereof thereafter constructed or acquired, whether said
9 obligations are authorized to finance construction, improvement,
10 enlargement, reconstruction, extension or acquisition of such or
11 any other municipal public utility;

12 b. Pledging to the punctual payment of the principal of and
13 interest on such obligations, all or any part of such revenues;

14 c. As to the setting aside out of such revenues of **[1]** one or
15 more reserve funds, and the regulation and disposition thereof;

16 d. As to the fixing and collection of such rates, rentals and
17 other charges for connection with or the use of any such municipal
18 public utility, including any improvements thereto or extensions
19 thereof thereafter constructed or acquired as will annually produce
20 revenues sufficient to provide for all or any lesser part described in
21 said ordinance of the following:

22 **[1.]** (1) expenses of operation, maintenance and repair of such
23 utility and any other such utilities,

24 **[2.]** (2) payment of the principal of and interest on said
25 obligations,

26 **[3.]** (3) such reserve funds as may have been provided for in
27 said ordinance,

28 **[4.]** (4) payment of any mortgage or mortgages subject to which
29 such utility or any other such utilities, or any part thereof may have
30 been acquired, and

31 **[5.]** (5) payment of any obligations having a lien on the
32 revenues of such utility or any other such utilities, or any part
33 thereof prior to or on a parity with the lien of such obligations;

34 e. As to the procedure, if any, by which the terms of any
35 covenant with the holders of such obligations may be amended or
36 abrogated, the amount of obligations the holders of which must
37 consent thereto and the manner in which such consent may be
38 given.

39 Such obligations may contain such recitals of or reference to any
40 such covenants as any resolution determining their form may
41 provide.

42 f. Notwithstanding any provisions of this section to the
43 contrary, any rates, rentals, or other charges that are levied to
44 finance a stormwater management system shall be determined in a
45 manner consistent with the stormwater utility guidance manual
46 created by the Department of Environmental Protection pursuant to

1 section 24 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3 (cf: P.L.1960, c.169, s.1)

4

5 30. N.J.S.40A:26A-2 is amended to read as follows:

6 40A:26A-2. The Legislature finds and declares it to be in the
7 public interest and to be the policy of this State to foster and
8 promote the public health , safety, and welfare by providing for the
9 collection and treatment of sewerage and the management of
10 stormwater through adequate sewerage facilities and stormwater
11 management systems. It is the purpose of this act to implement this
12 policy by authorizing municipalities and counties either separately
13 or in combination with other municipalities and counties to finance,
14 acquire, construct, maintain, operate or improve works for the
15 management of stormwater and the collection, treatment, transport
16 and disposal of sewage and to provide for the financing of these
17 facilities.

18 It is further declared that the acquisition, construction, operation,
19 and maintenance of stormwater management systems are essential
20 to the goals of protecting and improving the State's water quality,
21 and are necessary to prevent and abate nonpoint sources of
22 pollution, minimize stormwater runoff, control flooding, and
23 enhance groundwater recharge.

24 (cf: P.L.1991, c.53, s.1)

25

26 31. N.J.S.40A:26A-3 is amended to read as follows:

27 40A:26A-3. As used in **【this act】** N.J.S.40A:26A-1 et seq.:

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

30 "Cost" as applied to sewerage facilities or extensions or additions
31 thereto, means the cost of acquisition or the construction including
32 improvement, reconstruction, extension or enlargement, the cost of
33 all lands, property, rights and easements acquired. The cost of
34 demolition or removal of any buildings or structures thereon,
35 financing charges, interest on bonds issued to finance sewerage
36 facilities prior to and during construction, the cost of plans and
37 specifications, surveys or estimates of costs and revenues, the cost
38 of engineering, legal services, and any other expenses necessary or
39 incident to determining the feasibility of construction,
40 administrative and other expenses as may be necessary or incident
41 to the construction or acquisition of sewerage facilities and the
42 financing thereof.

43 "Local unit" means a county or municipality.

44 "Sewerage facilities" means the plants, structures or other real
45 and personal property acquired, constructed or operated, or to be
46 financed, acquired, constructed or operated, or any parts thereof,
47 used for the storage, collection, reduction, reclamation, disposal,
48 separation or other treatment of wastewater **【or】** , sewage sludge ,

1 or stormwater, or for the final disposal of residues resulting from
2 the treatment of wastewater or stormwater, including but not limited
3 to, pumping and ventilating stations, treatment plants and works,
4 connections, outfall servers, interceptors, trunk lines , drainage
5 systems, catch basins, detention ponds, and other appurtenances
6 necessary for their use or operation.

7 “Sewerage services” means any service rendered by or through a
8 sewerage facility including a stormwater management system.

9 “Stormwater” means water resulting from precipitation that: (1)
10 runs off of the land’s surface; (2) is transmitted to the subsurface;
11 (3) is captured by separate storm sewers or other sewerage or
12 drainage facilities; or (4) is conveyed by snow removal equipment;
13 and

14 “Stormwater management system” means any equipment, plant,
15 structures, machinery, apparatus, management practices, design
16 practices, planning activities, or land, or any combination thereof,
17 acquired, used, constructed, implemented, or operated to convey
18 stormwater, control or reduce stormwater runoff and associated
19 pollutants or flooding, induce or control the infiltration of
20 groundwater recharge of stormwater, or eliminate illicit or illegal
21 nonstormwater discharges into stormwater conveyances.

22 (cf: P.L.1991, c.53, s.1)

23

24 32. N.J.S.40A:26A-5 is amended to read as follows:

25 40A:26A-5. One or more local units adopting an ordinance or
26 resolution in accordance with N.J.S.40A:26A-4 are authorized and
27 empowered:

28 a. To acquire, construct, improve, extend, enlarge or
29 reconstruct and finance sewerage facilities, and to operate, manage
30 and control all or part of these facilities and all properties relating
31 thereto;

32 b. To issue bonds of the local unit or units to pay all or part of
33 the cost of the purchase, construction, improvement, extension,
34 enlargement or reconstruction of sewerage facilities;

35 c. To receive and accept from the federal or State government,
36 or any agency or instrumentality thereof, grants or loans for, or in
37 aid of, the planning, purchase, construction, improvement,
38 extension, enlargement or reconstruction, or financing of sewerage
39 facilities, and to receive and accept from any source, contributions
40 or money, property, labor or other things of value to be held, used
41 and applied only for the purposes for which the grants or loans and
42 contributions are made;

43 d. To acquire in the name of the local unit or units by gift,
44 purchase, or by the exercise of the right of eminent domain, lands
45 and rights and interests therein, including lands under water and
46 riparian rights, and personal property as may be deemed necessary
47 for acquisition, construction, improvement, extension, enlargement
48 or reconstruction, or for the efficient operation of any facilities

1 acquired or constructed under the provisions of N.J.S.40A:26A-1 et
2 seq. and to hold and dispose of all real and personal property so
3 acquired;

4 e. To make and enter into all contracts and agreements
5 necessary or incidental to the performance of the local unit's or
6 units' duties and the execution of powers authorized under
7 N.J.S.40A:26A-1 et seq., and to employ engineers, superintendents,
8 managers, attorneys, financial or other consultants or experts, and
9 other employees and agents as may be deemed necessary, and to fix
10 their compensation;

11 f. Subject to the provisions and restrictions set forth in the
12 ordinance or resolution authorizing or securing any bonds issued
13 under the provisions of N.J.S.40A:26A-1 et seq., to enter into
14 contracts with the federal or State **【Government】** government, or
15 any agency or instrumentality thereof, or with any other local unit,
16 private corporation, copartnership, association or individual
17 providing for, or relating to, sewerage services which contracts may
18 provide for the furnishing of sewerage facility services either by or
19 to the local unit or units, or the joint construction or operation of
20 sewerage facilities;

21 g. To fix and collect rates, fees, rents and other charges in
22 accordance with N.J.S.40A:26A-1 et seq.;

23 h. To prevent toxic pollutants from entering the sewerage
24 system , and to control nonstormwater discharges into stormwater
25 management systems;

26 i. To prevent from directly or indirectly entering the sewerage
27 system any matter or thing which is or may be injurious or
28 deleterious to the sewerage system or to its efficient operation;

29 j. Upon the request of a customer: (1) to offer the customer the
30 ability to receive or access, in electronic format, any periodic bill
31 for service sent by the local unit or units to its customers and any
32 additional information sent by the local unit or units to its
33 customers as required by law, provided that any notice of
34 disconnection, discontinuance or termination of sewerage service
35 shall be sent to a customer in written form at the customer's legal
36 mailing address in addition to being sent or being made available in
37 electronic format; and (2) to provide the customer the option of
38 paying any such periodic bill via electronic means; and

39 **【j.】** k. To exercise any other powers necessary or incidental to
40 the effectuation of the general purpose of N.J.S.40A:26A-1 et seq.
41 (cf: P.L.2010, c.91, s.6)

42

43 33. N.J.S.40A:26A-10 is amended to read as follows:

44 40A:26A-10. After the commencement of operation of sewerage
45 facilities, the local unit or units may prescribe and, from time to
46 time, alter rates or rentals to be charged to users of sewerage
47 services. Rates or rentals being in the nature of use or service
48 charges or annual rental charges, shall be uniform and equitable for

1 the same types and classes of use and service of the facilities,
2 except as permitted by section 5 of P.L.1994, c.78 (C.40A:26A-
3 10.1). Rates or rentals and types and classes of use and service may
4 be based on any factors which the governing body or bodies of that
5 local unit or units shall deem proper and equitable within the region
6 served. Any rate or rental charge associated with a stormwater
7 management system shall be calculated in a manner consistent with
8 the guidance provided by the stormwater utility guidance manual
9 created by the Department of Environmental Protection pursuant to
10 section 24 of P.L. , c. (C.) (pending before the Legislature
11 as this bill).

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

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

21 b. Establish a surplus in an amount sufficient to provide for the
22 reasonable anticipation of any contingency that may affect the
23 operating of the sewerage facility, and, at the discretion of the local
24 unit or units, allow for the transfer of moneys from the budget for
25 the sewerage facilities to the local budget in accordance with
26 section 5 of P.L.1983, c.111 (C.40A:4-35.1).

27 (cf: P.L.1994, c.78, s.6.)

28

29 34. N.J.S.40A:27-3 is amended to read as follows:

30 40A:27-3. As used in **【this act】** N.J.S.40A:27-1 et seq.:

31 "Contracting local unit" means a local unit which enters into a
32 contract with another local unit for the construction, maintenance,
33 improvement, acquisition or financing of a flood control facility for
34 its own use;

35 "Contractor" means a local unit, which enters into a contract with
36 a contracting local unit to construct, maintain, improve, acquire or
37 finance flood control facilities for the contracting local unit;

38 "Cost" as applied to flood control facilities or extensions or
39 additions thereto, means the cost of construction, reconstruction or
40 maintenance, improvement, the cost of all labor, materials,
41 machinery and equipment, the costs of all lands, property, rights
42 and easements acquired, financing charges, interest on bonds issued
43 to finance a facility prior to, during and after acquisition or
44 construction, the cost of plans and specifications, surveys or
45 estimates of costs and of revenues, the cost of engineering and legal
46 services, and all other expenses necessary or incident to
47 determining the feasibility or practicability of the construction,
48 reconstruction, improvement, or maintenance of a facility,

1 administrative expenses and such other expenses as may be
2 necessary or incident to the construction, maintenance or
3 acquisition of a facility, and the financing herein authorized. Any
4 obligation or expense incurred by a local unit in connection with
5 any of the foregoing items of cost prior to the issuance of bonds or
6 notes as authorized herein may be reimbursed to the local unit out
7 of the proceeds of bonds issued under the provisions of this chapter;

8 "Department" means the Department of Environmental
9 Protection;

10 "Flood control facilities" means the dams, drainage ways,
11 structures and other real and personal property acquired,
12 constructed, operated, financed, maintained or improved or to be
13 acquired, constructed, operated, financed, maintained or improved
14 by a local unit for the purposes of flood control or stormwater
15 management, including storage reservoirs, dikes, diversions, dams,
16 spillways, levees, revetments, drains, ditches or channel
17 improvements, such as widening, deepening, straightening,
18 clearing, desnagging, sloping, building and filling in, and other
19 plants, structures, boats, conveyances and other real or personal
20 property and rights therein, and appurtenances necessary for the
21 control of flooding, the preservation of stream flow and the
22 management of surface water and **[storm water]** stormwater,
23 including any storm sewers, storm drains, drainage facilities, and
24 detention basins, and the dredging or desnagging of any drainage
25 ways;

26 "General obligation bonds" means general obligations of the
27 local unit which are payable from unlimited ad valorem taxes
28 additionally secured by a pledge of the revenues derived from the
29 assessment of such local improvement charges as may be assessed;

30 "Local unit" means a county or municipality;

31 "Parties to the contract" means a contractor and a contracting
32 local unit which have contracted for the construction, maintenance,
33 improvement or acquisition of flood control facilities;

34 "Stormwater" means water resulting from precipitation that: (1)
35 runs off of the land's surface; (2) is transmitted to the subsurface;
36 (3) is captured by separate storm sewers or other sewerage or
37 drainage facilities; or (4) is conveyed by snow removal equipment;
38 and

39 "Stormwater management system" means any equipment, plant,
40 structures, machinery, apparatus, management practices, design
41 practices, planning activities, or land, or any combination thereof,
42 acquired, used, constructed, implemented, or operated to convey
43 stormwater, control or reduce stormwater runoff and associated
44 pollutants or flooding, induce or control the infiltration of
45 groundwater recharge of stormwater, or eliminate illicit or illegal
46 nonstormwater discharges into stormwater conveyances.

47 (cf: P.L.1987, c.179, s.1)

48

1 35. N.J.S.40A:27-10 is amended to read as follows:
2 40A:27-10. If the governing body of a local unit determines that
3 public necessity and interest require the cost of construction of a
4 flood control facility to be financed by local improvement
5 assessments, it shall pass a resolution or ordinance, as the case may
6 be, of its intention to undertake and so finance the facility and shall
7 give notice of this intention by advertising in one or more
8 newspapers of general circulation in the county or municipality and
9 by notifying each concerned property owner by certified mail; and
10 this notice shall fix a time and place, not less than two weeks after
11 the date of the notice, for a public hearing on the proposed action.
12 At the public hearing the governing body of a local unit shall
13 present a preliminary assessment of the affected properties. If the
14 purpose of a flood control facility is to serve and operate as a
15 stormwater management system, that facility may instead be
16 financed through a fee to be determined in a manner consistent with
17 the stormwater utility guidance manual created by the Department
18 of Environmental Protection pursuant to section 24 of P.L. , c.
19 (C.) (pending before the Legislature as this bill).
20 (cf: P.L.1987, c.179, s.1)

21

22 36. This act shall take effect on the 180th day after the date of
23 enactment, but the Department of Environmental Protection may
24 take such anticipatory administrative action in advance thereof as
25 shall be necessary for the implementation of this act.

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STATEMENT

29

30 This bill would permit municipalities, counties, and certain
31 authorities to establish and operate stormwater utilities.

32 New Jersey faces an extensive set of problems due to inadequate
33 stormwater infrastructure and management. When storms occur,
34 rainwater runs off of impervious surfaces like roads, roofs, and
35 parking lots into stormwater sewer systems and ditches or into
36 waterways. This stormwater runoff carries with it debris, bacteria,
37 and chemicals such as pesticides, fertilizers, and gasoline, which
38 pollutes water bodies and drinking water sources. Additionally,
39 when there is no open space or stormwater management
40 infrastructure to help absorb and capture water, runoff in large
41 volumes and force can result in major flooding and property
42 damage. New Jersey, in particular, is prone to pollution and
43 flooding problems, with over 10 percent of its land area covered in
44 impervious surfaces. These problems affect the health, safety,
45 economic well-being, and quality of life of the State's residents.

46 Unlike drinking water supply and wastewater systems, New
47 Jersey's stormwater infrastructure lacks a dedicated source of
48 funding, and receives few upgrades and little maintenance once

1 built. Often times, stormwater systems go unmonitored and
2 unattended until they break down. In some cases, the infrastructure
3 is inadequate to manage stormwater, especially as increased
4 development and large storm events generate more runoff. The
5 United States Environmental Protection Agency has ranked
6 stormwater management as New Jersey's most expensive water-
7 related funding need, requiring \$15.6 billion. While the New Jersey
8 Department of Environmental Protection (DEP) has adopted
9 regulations requiring municipalities to manage stormwater, many
10 municipalities do not have the resources to do so. There is currently
11 no explicit authority in State law for municipalities or counties to
12 create stormwater utilities.

13 This bill would authorize municipalities, counties, and certain
14 local authorities to create and operate stormwater utilities. The bill
15 would permit municipalities and counties to finance the creation,
16 operation, and maintenance of stormwater utilities through the
17 imposition of user fees and the issuance of bonds. Among other
18 statutory changes, the bill would amend the "sewerage authorities
19 law," the "municipal and county utilities authorities law," the
20 "county improvement authorities law," the "Municipal and County
21 Sewerage Act," and the "Municipal and County Flood Control
22 Financing Act" to permit municipalities, counties, and combinations
23 of municipalities and counties to manage stormwater through
24 utilities.

25 The bill would also require the DEP to create a stormwater utility
26 guidance manual to provide guidance to municipalities, counties,
27 and authorities seeking to establish stormwater utilities. The
28 guidance manual would provide local units with rate structure
29 guidance, including the means and method of computing rates for
30 stormwater utility charges. Such charges would be directly related
31 to the specific costs of the stormwater utility. Under the bill, the
32 DEP would receive five percent of the annual fees collected by
33 stormwater utilities as stormwater utility charges to fund program
34 planning, implementation, and coordination activities related to
35 stormwater utilities.

36 Finally, the bill would authorize municipalities, counties, and
37 authorities to contract with private firms for the operation or
38 improvement of stormwater utilities.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1073

STATE OF NEW JERSEY

DATED: OCTOBER 22, 2018

The Assembly Telecommunications and Utilities Committee reports favorably Senate Bill No. 1073 SCS (1R).

As reported, this bill permits counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Under the bill, a county or municipality may, by resolution or ordinance, as appropriate, establish a stormwater utility for the purposes of acquiring, constructing, improving, maintaining, and operating a stormwater management system. The county or municipality may establish a stormwater utility as a new department within the county or municipality, or as an operation of an existing department having responsibility and control over a stormwater management system.

Alternatively, one or more municipalities that have established a municipal sewerage authority or a municipal utilities authority may, by ordinance or parallel ordinances, request that the authority establish a stormwater utility. Upon receiving a request, the sewerage authority may establish a stormwater utility pursuant to a service agreement between the sewerage authority and the requesting municipalities. Likewise, a county that has established a county sewerage authority, county utilities authority, or county improvement authority may, by resolution, request that the authority establish a stormwater utility, and the authority may establish the stormwater utility pursuant to a service agreement. A stormwater utility that is established by an authority is to be considered a separate operation of the authority to be budgeted and accounted for separately.

Under the bill, a county, municipality, or authority (local unit) that establishes a stormwater utility is authorized to charge and collect reasonable fees and other charges to recover the stormwater utility's costs for stormwater management. These fees and other charges are to be collected from the owner or occupant of any real property from which originates stormwater runoff which enters the stormwater

management system or the waters of the State. A fee or other charge is to be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from the real property. In establishing a fee or other charge, a local unit would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. A local unit would be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Under the bill, land actively devoted to agriculture or horticulture would be exempt from any fee or other charge.

A local unit is permitted to use the fees or other charges collected for a variety of stormwater-related purposes outlined in the bill. A local unit that collects fees or other charges is required to remit to the State Treasurer annually an amount equal to five percent of all fees or other charges, or \$50,000, whichever amount is less. The State Treasurer is to deposit these moneys into the “Clean Stormwater and Flood Reduction Fund” (fund), established by the bill. Moneys deposited in the fund are to be specifically dedicated and used by the Department of Environmental Protection (DEP) to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP’s stormwater management program, and a public education and outreach program relating to stormwater management.

In the event that a person does not pay a fee or other charge when due, the bill provides a local unit with several enforcement mechanisms which are similar to the enforcement mechanisms that currently exist for water and sewer public utilities. Specifically: (1) interest is to accrue on the unpaid fees; (2) the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and (3) the unpaid balance and any interest accrued thereon, together with attorney’s fees, could be recovered in a civil action.

The bill requires a local unit that establishes a stormwater utility to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs and the DEP. The annual report is to include, but need not be limited to: (1) information on the stormwater utility’s service area; its schedule of fees, other charges, and credits; (2) the number of properties subject to the stormwater utility’s fees and other charges, and the number of properties, broken down by land-use type, granted credits or exemptions; (3) the total revenues collected from stormwater utility fees and other charges; (4) the percentage of

revenues from fees and other charges spent on the purposes authorized in the bill; and (5) a list of stormwater management projects implemented in the previous fiscal year. A local unit would be required to post the annual report on their Internet website for access by the public.

Under the bill, a local unit that establishes a stormwater utility is permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a local unit that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a local unit requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a local unit that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits a local unit to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. The bill permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill requires the DEP, in consultation with other government agencies and stakeholders, to develop and periodically update a stormwater utility guidance manual. The guidance manual is to include, but not be limited to: (1) technical assistance for local units seeking to establish a stormwater utility; (2) factors for local units to consider when establishing and revising stormwater utility fees and other charges; (3) information on how to develop an asset management program for stormwater management systems; and (4) information on how local units may conduct public education and outreach related to stormwater management.

The bill exempts costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 which concerns the budgets of certain authorities.

The bill requires a local unit to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken

in connection with financial assistance provided for the construction of a stormwater management system.

As reported, Senate Bill No. 1073 (SCS) (1R) is identical to Assembly Bill No. 2694, which was substituted and also reported by the committee on this date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1073**

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 2019

The Assembly Appropriations Committee reports favorably an Senate Committee Substitute for Senate Bill No. 1073 (1R), with committee amendments.

As amended, this substitute bill permits counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Under the bill, a county or municipality may, by resolution or ordinance, as appropriate, establish a stormwater utility for the purposes of acquiring, constructing, improving, maintaining, and operating a stormwater management system. The county or municipality may establish a stormwater utility as a new department within the county or municipality, or as an operation of an existing department having responsibility and control over a stormwater management system.

Alternatively, one or more municipalities that have established a municipal sewerage authority or a municipal utilities authority may, by ordinance or parallel ordinances, request that the authority establish a stormwater utility. Upon receiving a request, the sewerage authority may establish a stormwater utility pursuant to a service agreement between the sewerage authority and the requesting municipalities. Likewise, a county that has established a county sewerage authority, county utilities authority, or county improvement authority may, by resolution, request that the authority establish a stormwater utility, and the authority may establish the stormwater utility pursuant to a service agreement. A stormwater utility that is established by an authority is to be considered a separate operation of the authority to be budgeted and accounted for separately.

Under the bill, a county, municipality, or authority (local unit) that establishes a stormwater utility is authorized to charge and collect reasonable fees and other charges to recover the stormwater utility's costs for stormwater management. These fees and other charges are to be collected from the owner or occupant of any real property from which originates stormwater runoff which enters the stormwater

management system or the waters of the State. A fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from the real property. In establishing a fee or other charge, a local unit would be required to provide a partial fee reduction in the form of a credit for any property that complies with the State or local stormwater management standards that were in place at the time the system was approved. A local unit would be required to provide an additional credit for any property which has installed and is operating and maintaining current stormwater best management practices that reduce, retain, or treat stormwater onsite. A local unit would be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Under the bill, land actively devoted to agriculture or horticulture would be exempt from any fee or other charge.

A local unit is permitted to use the fees or other charges collected for a variety of stormwater-related purposes outlined in the bill. A local unit that collects fees or other charges is required to remit to the State Treasurer annually an amount equal to five percent of all fees or other charges, or \$50,000, whichever amount is less. The State Treasurer is to deposit these moneys into the "Clean Stormwater and Flood Reduction Fund" (fund), established by the bill. Moneys deposited in the fund are to be specifically dedicated and used by the Department of Environmental Protection (DEP) to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management.

In the event that a person does not pay a fee or other charge when due, the bill provides a local unit with several enforcement mechanisms which are similar to the enforcement mechanisms that currently exist for water and sewer public utilities. Specifically: (1) interest is to accrue on the unpaid fees; (2) the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and (3) the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The bill requires a local unit that establishes a stormwater utility to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs and the DEP. The annual report is to include, but need not be limited to: (1) information on the stormwater utility's service area; its schedule of fees, other charges, and credits; (2) the number of properties subject to the stormwater utility's fees and other

charges, and the number of properties, broken down by land-use type, granted credits or exemptions; (3) the total revenues collected from stormwater utility fees and other charges; (4) the percentage of revenues from fees and other charges spent on the purposes authorized in the bill; and (5) a list of stormwater management projects implemented in the previous fiscal year. A local unit would be required to post the annual report on their Internet website for access by the public.

Under the bill, a local unit that establishes a stormwater utility is permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a local unit that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a local unit requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a local unit that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits a local unit to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. The bill permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill requires the DEP, in consultation with other government agencies and stakeholders, to develop and periodically update a stormwater utility guidance manual. The guidance manual is to include, but not be limited to: (1) technical assistance for local units seeking to establish a stormwater utility; (2) factors for local units to consider when establishing and revising stormwater utility fees and other charges; (3) information on how to develop an asset management program for stormwater management systems; and (4) information on how local units may conduct public education and outreach related to stormwater management.

The bill exempts costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 which concerns the budgets of certain authorities.

The bill also limits the application of the two percent cap on the growth of fee-funded appropriations at regional sewerage authorities for counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest federal census

The bill requires a local unit to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system.

As amended and reported, Senate Bill No. 1073 (SCS) (1R) is identical to Assembly Bill No. 2694 (ACS), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The amendments:

- 1) Specify in the bill's findings, that any stormwater management fee would be based on a fair and equitable approximation of the proportionate contribution of stormwater from a real property;
- 2) provide a partial fee reduction in the form of a credit for any property that maintains and operates a stormwater management system that complies with the State and local stormwater management standards that were in place at the time the system was approved;
- 3) specify that the credit for installing and operating stormwater best management practices applies only if *current* best management practices are used;
- 4) provide that the owner of a stormwater management system that complies with stormwater management standards that were in place at the time the system was approved may retain ownership of the system or may offer to dedicate it to the county, municipality, or authority; an owner who dedicates a system would still be liable for paying any applicable utility fees imposed under the bill;
- 5) limit the application of the two percent cap on the growth of fee-funded appropriations at regional sewerage authorities to counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest federal census; and
- 6) make technical changes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain counties, municipalities, and authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a

stormwater utility by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.

The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to five percent of the fees and other charges collected by each stormwater utility, or \$50,000, whichever is less, that the bill dedicates to the DEP to pay for various stormwater-related costs.

Any county, municipality, or authority that collects fees and other charges through a stormwater utility would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund" which would be specifically dedicated to and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities and other stormwater related programs. The DEP will therefore experience an indeterminate annual revenue and expenditure increase equal to the five percent of all such fees and other charges collected by each stormwater utility, or \$50,000, whichever amount is less.

To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1073**

STATE OF NEW JERSEY

DATED: MAY 10, 2018

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 1073.

The committee substitute would permit counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Specifically, under the substitute, the governing body of any county or municipality may, by resolution or ordinance, as appropriate, establish a stormwater utility for the purposes of acquiring, constructing, improving, maintaining, and operating stormwater management systems. The county or municipality may establish a stormwater utility as a new department within the county or municipality, or as an operation of an existing department or departments having responsibility and control over stormwater management systems.

Alternatively, the governing body or bodies of one or more municipalities that have established a municipal sewerage authority or a municipal utilities authority may, by ordinance or parallel ordinances, request that the authority establish a stormwater utility. Upon receiving such a request, the authority may establish a stormwater utility pursuant to a service agreement between the authority and the requesting municipalities. Likewise, the governing body of any county that has established a county sewerage authority, county utilities authority, or county improvement authority may, by resolution, request that the authority establish a stormwater utility, and the authority may establish the utility pursuant to a service agreement. A stormwater utility that is established by an authority would be considered a separate operation of the authority to be budgeted and accounted for separately.

Any county, municipality, or authority that establishes a stormwater utility under the substitute would be authorized to charge and collect reasonable fees and other charges to recover the utility's costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of

the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. Counties, municipalities, and authorities would also be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Land actively devoted to agriculture or horticulture would be exempt from any fees and other charges under the substitute.

A county, municipality, or authority would be permitted to use fees collected for a variety of stormwater-related purposes outlined in section 8 of the substitute. Any county, municipality, or authority that collects fees and other charges under the substitute would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the substitute. Moneys deposited in the fund would be specifically dedicated and used by the Department of Environmental Protection (DEP) only to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is collected, the substitute would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the substitute provides counties, municipalities, and authorities with several enforcement mechanisms, which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

A county, municipality, or authority that establishes a stormwater utility would be required to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but not be limited to, information on the stormwater utility's service area, its schedule of fees and other

charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the substitute, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the substitute, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the substitute provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The substitute provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The substitute permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The substitute would require the DEP, in consultation with other government agencies, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the "Administrative Procedure Act."

The substitute would exempt costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority,

and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 (which concerns the budgets of certain authorities).

The substitute would require each county, municipality, and authority to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the substitute.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1073**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1073, with committee amendments.

As amended, this substitute bill would permit counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Specifically, under the substitute, the governing body of any county or municipality may, by resolution or ordinance, as appropriate, establish a stormwater utility for the purposes of acquiring, constructing, improving, maintaining, and operating stormwater management systems. The county or municipality may establish a stormwater utility as a new department within the county or municipality, or as an operation of an existing department or departments having responsibility and control over stormwater management systems.

Alternatively, the governing body or bodies of one or more municipalities that have established a municipal sewerage authority or a municipal utilities authority may, by ordinance or parallel ordinances, request that the authority establish a stormwater utility. Upon receiving such a request, the authority may establish a stormwater utility pursuant to a service agreement between the authority and the requesting municipalities. Likewise, the governing body of any county that has established a county sewerage authority, county utilities authority, or county improvement authority may, by resolution, request that the authority establish a stormwater utility, and the authority may establish the utility pursuant to a service agreement. A stormwater utility that is established by an authority would be considered a separate operation of the authority to be budgeted and accounted for separately.

Any county, municipality, or authority that establishes a stormwater utility under the substitute would be authorized to charge and collect reasonable fees and other charges to recover the utility's costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real

property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. Counties, municipalities, and authorities would also be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Land actively devoted to agriculture or horticulture would be exempt from any fees and other charges under the substitute.

A county, municipality, or authority would be permitted to use fees collected for a variety of stormwater-related purposes outlined in section 8 of the substitute. Any county, municipality, or authority that collects fees and other charges under the substitute would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the substitute. Moneys deposited in the fund would be specifically dedicated and used by the Department of Environmental Protection (DEP) only to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is collected, the substitute would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the substitute provides counties, municipalities, and authorities with several enforcement mechanisms, which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The substitute, as amended, would require a county, municipality, or authority that establishes a stormwater utility to submit an annual report in a form and manner determined by the Division of Local

Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but need not be limited to, information on the stormwater utility's service area; its schedule of fees, other charges, and credits; the number of properties subject to the utility's fees and other charges, and the number of properties, broken down by land-use type, granted credits or exemptions; the total revenues collected from stormwater utility fees and other charges; the percentage of revenues from fees and other charges spent on the purposes authorized in the substitute; and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the substitute, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the substitute provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The substitute provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The substitute permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The substitute, as amended, would require the DEP, in consultation with other government agencies and stakeholders, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but need not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing and revising stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can

conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the “Administrative Procedure Act.”

The substitute would exempt costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority’s expenses established in P.L.2017, c.290 (which concerns the budgets of certain authorities).

The substitute would require each county, municipality, and authority to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the substitute.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) specify that counties, municipalities, and authorities may use fees and other charges collected under the bill to take any action that is required pursuant to any New Jersey Pollutant Discharge Elimination System (NJPDES) permit;

(2) require that the annual report submitted by a stormwater utility include information on the utility’s schedule of credits, the number of properties of each land use type that receive a credit or exemption, and the cumulative value of credits that have been granted to properties of each land use type; and

(3) require the DEP to consult with stakeholders when developing the stormwater utility guidance manual.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the substitute bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain counties, municipalities, and authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges.

The substitute will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.

The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to five percent of the fees and other charges collected by each stormwater utility, or \$50,000, whichever is less, that the substitute dedicates to the DEP to pay for various stormwater-related costs.

Any county, municipality, or authority that collects fees and other charges through a stormwater utility would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund" which would be specifically dedicated to and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities and other stormwater related programs. The DEP will therefore experience an indeterminate annual revenue and expenditure increase equal to the five percent of all such fees and other charges collected by each stormwater utility, or \$50,000, whichever amount is less.

To the extent surplus revenue is collected, the substitute would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1073
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 4, 2018

SUMMARY

- Synopsis:** Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.
- Type of Impact:** Local government and State expenditure increase offset by a revenue increase through utility fees and other charges.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, counties, municipalities, and certain local authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Increase	Indeterminate
Annual Local Expenditure Increase	Indeterminate
Annual Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain counties, municipalities, and authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges.
- The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.
- The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to five percent of the fees and other charges collected by each stormwater utility, or \$50,000, whichever is less, that the bill dedicates to the DEP to pay for various stormwater-related costs.

- Any county, municipality, or authority that collects fees and other charges through a stormwater utility would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund” which would be specifically dedicated to and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities and other stormwater related programs. The DEP will therefore experience an indeterminate annual revenue and expenditure increase equal to the five percent of all such fees and other charges collected by each stormwater utility, or \$50,000, whichever amount is less.
- To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

BILL DESCRIPTION

This bill would permit counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Any county, municipality, or authority that establishes a stormwater utility under the bill would be authorized to charge and collect reasonable fees and other charges to recover the utility’s costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. Counties, municipalities, and authorities would also be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Land actively devoted to agriculture or horticulture (i.e., farmland assessment) would be exempt from any fees and other charges under the bill.

A county, municipality, or authority would be permitted to use fees and other charges collected through the stormwater utility for a variety of stormwater-related purposes. Any county, municipality, or authority that collects fees and other charges under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund,” established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP only to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP’s stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the bill provides counties, municipalities, and authorities with several enforcement mechanisms, which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

A county, municipality, or authority that establishes a stormwater utility would be required to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the bill, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill would require the DEP, in consultation with other government agencies, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but need not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the "Administrative Procedure Act."

The bill would exempt costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 (which concerns the budgets of certain authorities).

The bill would require each county, municipality, and authority to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill permits, but does not require, counties, municipalities, and certain authorities to establish and operate stormwater utilities. The bill would also permit counties, municipalities, and certain authorities to finance the creation, operation, and maintenance of stormwater utilities through the imposition of fees and other charges (also known as user fees) and the issuance of bonds. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. The bill also provides counties, municipalities, and authorities with several enforcement mechanisms in the event that a person does not pay a stormwater utility fee or other charge when due. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The OLS estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by counties, municipalities, and certain authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges. The OLS cannot quantify these fiscal impacts because of the lack of information on each individual stormwater utility's cost to operate, maintain, and invest in capital improvements.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish and operate stormwater utilities by an indeterminate amount. The cost of establishing and operating stormwater utilities include operation, maintenance, and capital improvement costs. Operation and maintenance costs for a stormwater utility can vary widely, depending on the size of the utility, location, and age of its infrastructure. In addition, the prioritization of capital projects depends on the outcomes and prioritization of needs that come from a stormwater system inventory or asset management plan, which would be specific for each stormwater utility. Further, these projects can vary greatly in cost. Some capital projects may include: installation of Baysaver devices, installation of additional curb, gutter, or swale conveyances, and implementing green infrastructure such as slowing or eliminating erosion at outfalls. A county, municipality, or authority that establishes a stormwater utility would also be required to submit an annual report to the DCA and DEP which would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees

and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

The OLS notes that the bill will also increase the annual revenue of counties, municipalities, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. In many cases, operational, maintenance, and capital costs could be almost fully recovered through the imposition of fees and other charges, with a small portion funded through bonds and other sources. To come to this conclusion, the OLS notes that according to the 2016 Stormwater Utility Survey provided by Black & Veatch Management Consulting, LLC, the city of Bellevue in the state of Washington established stormwater utility user fees and recovered 93 percent of its cost for its stormwater utilities through such fees, and the remaining costs from miscellaneous stormwater fees.

In addition, the bill will result in an indeterminate increase in annual DEP administrative expenditures from implementing and administering the provisions of the bill. For example, the bill's provision that requires the DEP to create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities may result in the DEP incurring some marginal administrative costs each year. The OLS notes that, under the bill, any county, municipality, or authority that collects fees and other charges would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities. Consequently, the DEP will experience an indeterminate annual revenue and expenditure increase equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less.

Lastly, to the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Neha Mehta Patel
Associate Fiscal Analyst*

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

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

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1073
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 26, 2018

SUMMARY

- Synopsis:** Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.
- Type of Impact:** Local government and State expenditure increase offset by a revenue increase through utility fees and other charges.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, counties, municipalities, and certain local authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Increase	Indeterminate
Annual Local Expenditure Increase	Indeterminate
Annual Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain counties, municipalities, and authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges.
- The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.
- The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to five percent of the fees and other charges collected

by each stormwater utility, or \$50,000, whichever is less, that the bill dedicates to the DEP to pay for various stormwater-related costs.

- Any county, municipality, or authority that collects fees and other charges through a stormwater utility would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund” which would be specifically dedicated to and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities and other stormwater related programs. The DEP will therefore experience an indeterminate annual revenue and expenditure increase equal to the five percent of all such fees and other charges collected by each stormwater utility, or \$50,000, whichever amount is less.

To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

BILL DESCRIPTION

This bill would permit counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Any county, municipality, or authority that establishes a stormwater utility under the bill would be authorized to charge and collect reasonable fees and other charges to recover the utility’s costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. Counties, municipalities, and authorities would also be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Land actively devoted to agriculture or horticulture (i.e., farmland assessment) would be exempt from any fees and other charges under the bill.

A county, municipality, or authority would be permitted to use fees and other charges collected through the stormwater utility for a variety of stormwater-related purposes. Any county, municipality, or authority that collects fees and other charges under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund,” established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP only to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP’s stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is

collected, the bill would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the bill provides counties, municipalities, and authorities with several enforcement mechanisms, which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

A county, municipality, or authority that establishes a stormwater utility would be required to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the bill, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill would require the DEP, in consultation with other government agencies, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but need not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the "Administrative Procedure Act."

The bill would exempt costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a

local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 (which concerns the budgets of certain authorities).

The bill would require each county, municipality, and authority to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill permits, but does not require, counties, municipalities, and certain authorities to establish and operate stormwater utilities. The bill would also permit counties, municipalities, and certain authorities to finance the creation, operation, and maintenance of stormwater utilities through the imposition of fees and other charges (also known as user fees) and the issuance of bonds. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. The bill also provides counties, municipalities, and authorities with several enforcement mechanisms in the event that a person does not pay a stormwater utility fee or other charge when due. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The OLS estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by counties, municipalities, and certain authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges. The OLS cannot quantify these fiscal impacts because of the lack of information on each individual stormwater utility's cost to operate, maintain, and invest in capital improvements.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish and operate stormwater utilities by an indeterminate amount. The cost of establishing and operating stormwater utilities include operation, maintenance, and capital improvement costs. Operation and maintenance costs for a stormwater utility can vary widely, depending on the size of the utility, location, and age of its infrastructure. In addition, the prioritization of capital projects depends on the outcomes and prioritization of needs that come from a stormwater system inventory or asset management plan, which would be specific for each stormwater utility. Further, these projects can vary greatly in cost. Some capital projects may include: installation of Baysaver devices, installation of additional curb, gutter, or swale conveyances, and implementing green infrastructure such as slowing or eliminating erosion at outfalls. A county, municipality, or authority that establishes a stormwater utility

would also be required to submit an annual report to the DCA and DEP which would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

The OLS notes that the bill will also increase the annual revenue of counties, municipalities, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. In many cases, operational, maintenance, and capital costs could be almost fully recovered through the imposition of fees and other charges, with a small portion funded through bonds and other sources. To come to this conclusion, the OLS notes that according to the 2016 Stormwater Utility Survey provided by Black & Veatch Management Consulting, LLC, the city of Bellevue in the state of Washington established stormwater utility user fees and recovered 93 percent of its cost for its stormwater utilities through such fees, and the remaining costs from miscellaneous stormwater fees.

In addition, the bill will result in an indeterminate increase in annual DEP administrative expenditures from implementing and administering the provisions of the bill. For example, the bill's provision that requires the DEP to create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities may result in the DEP incurring some marginal administrative costs each year. The OLS notes that, under the bill, any county, municipality, or authority that collects fees and other charges would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities. Consequently, the DEP will experience an indeterminate annual revenue and expenditure increase equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less.

Lastly, to the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Neha Mehta Patel
Associate Fiscal Analyst*

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

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

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1073
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: FEBRUARY 5, 2019

SUMMARY

- Synopsis:** Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.
- Type of Impact:** State and local government expenditure increase offset by a revenue increase through utility fees and other charges.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, counties, municipalities, and certain local authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Increase	Indeterminate
Annual Local Expenditure Increase	Indeterminate
Annual Local Revenue Increase	Indeterminate

- The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The Office of Legislative Services (OLS) notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.
- Any county, municipality, or authority that collects a stormwater utility fee under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund” which would be specifically dedicated to and used by the Department of

Environmental Protection (DEP) for stormwater management purposes. The DEP will therefore experience an indeterminate annual increase in revenues and expenditures.

- To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent of stormwater fees its stormwater utility collects.
- The bill limits application of the two percent cap on annual increases in a regional sewerage authority's fee-funded appropriations and user fees, established by P.L.2017, c.290, to only certain counties. Sewerage authorities that are no longer subject to the cap may spend and raise more revenue from users than under existing law.

BILL DESCRIPTION

This bill would authorize counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Any county, municipality, or authority that establishes a stormwater utility under the bill would be authorized to charge and collect reasonable fees and other charges to recover the utility's costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property that complies with the State or local stormwater management standards that were in place at the time the system was approved. A county, municipality, or authority would be required to provide an additional credit for any property which has installed and is operating and maintaining current stormwater best management practices that reduce, retain, or treat stormwater onsite. A county, municipality, or authority would be required to provide an additional credit for any property which has installed and is operating and maintaining green infrastructure onsite. Under the bill, land actively devoted to agriculture or horticulture would be exempt from any stormwater fee or other charge.

A county, municipality, or authority would be permitted to use stormwater utility fees and other charges for a variety of stormwater-related purposes outlined in the bill. Any county, municipality, or authority that collects fees and other charges under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the bill provides counties, municipalities, and authorities with several enforcement mechanisms,

which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

A county, municipality, or authority that establishes a stormwater utility would be required to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges, the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the bill, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of a privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill would require the DEP, in consultation with other government agencies, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but need not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the "Administrative Procedure Act."

Current law, P.L.2017, c.290, imposes a two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and a two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses. This bill would limit application of P.L.2017, c.290 to regional sewerage authorities located in counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest

federal census. For those regional sewerage authorities still subject to the two percent cap, the bill would exempt costs associated with stormwater utilities from the two percent cap.

The bill would require each county, municipality, and authority that creates a stormwater utility to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill permits, but does not require, counties, municipalities, and certain authorities to establish and operate stormwater utilities. The bill also permits counties, municipalities, and certain authorities to finance the creation, operation, and maintenance of stormwater utilities through the imposition of fees and other charges (also known as user fees) and the issuance of bonds. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. The bill also provides counties, municipalities, and authorities with several enforcement mechanisms in the event that a person does not pay a stormwater utility fee or other charge when due. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The OLS estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by counties, municipalities, and certain authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges. The OLS cannot quantify these fiscal impacts because of the lack of information on each individual stormwater utility's cost to operate, maintain, and invest in capital improvements.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish and operate stormwater utilities by an indeterminate amount. The cost of establishing and operating stormwater utilities include staffing, planning, and operation, maintenance, and capital improvement costs for stormwater infrastructure. Operation and maintenance costs for a stormwater utility can vary widely, depending on the size of the utility, location, and age of its infrastructure. In addition, the prioritization of capital projects depends on the outcomes and prioritization of needs that come from a stormwater system inventory or asset management plan, which would be specific for each stormwater utility. Further, these projects can vary greatly in cost. Some capital projects may include: installation

of Baysaver devices, installation of additional curb, gutter, or swale conveyances, and implementing green infrastructure such as slowing or eliminating erosion at outfalls.

A county, municipality, or authority that establishes a stormwater utility would also be required to submit an annual report to the DCA and DEP which would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public. These entities would incur some administrative costs in compiling, submitting, and posting the annual report, which would be reimbursed through stormwater utility fees and other charges.

The OLS notes that the bill will also increase the annual revenue of counties, municipalities, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. In many cases, operational, maintenance, and capital costs could be almost fully recovered through the imposition of fees and other charges, with a small portion funded through bonds and other sources. For example, according to the "2016 Stormwater Utility Survey" prepared by Black & Veatch Management Consulting, LLC, the city of Bellevue in the state of Washington established stormwater utility user fees and recovered 93 percent of its cost for its stormwater utilities through such fees, and the remaining costs from miscellaneous stormwater fees. The amount of any stormwater utility fee would be determined by each county, municipality, or authority that establishes a utility, in accordance with that entity's specific needs. However, according to the "2018 Stormwater Utility Survey," prepared by Black & Veatch Management Consulting, LLC, in 2018, the average monthly single-family residential stormwater fee in the United States was \$5.48.

In addition, the bill will result in an indeterminate increase in annual DEP administrative expenditures from implementing and administering the provisions of the bill. For example, the bill's requirement that the DEP create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities may result in the DEP incurring some marginal administrative costs each year. The OLS notes that, under the bill, any county, municipality, or authority that collects fees and other charges would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities. Consequently, the DEP will experience an indeterminate increase in revenues and expenditures.

Current law, P.L.2017, c.290, places a two percent cap on annual increases in a regional sewerage authority's fee-funded appropriations, and the amounts billed to the authority's customers and to local units that are members of the regional sewerage authority. The bill would limit application of the two percent cap to a regional sewerage authority located in a county of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile. Currently, the only county that meets this population size and density criteria is Hudson County, and so, under the bill, the two percent cap would only apply to a regional sewerage authority located in Hudson County. Regional sewerage authorities located elsewhere would no longer be subject to the two percent cap and, thus, could spend more and raise more revenue from users than under existing law. However, a regional sewerage authority could become subject to the two percent cap if the county in which it is located later meets the

population size and density criteria specified above. Whether, and how much, a regional sewerage authority increases its spending and user fees depends on a number of factors, including sewerage flow levels, the authority's customer base, its capital investment needs, the provisions of labor contracts, costs of goods and services, levels of non-user fee revenues, and debt service requirements. Consequently, the precise fiscal impact of this provision is indeterminate.

Lastly, to the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the county or municipal budget, as applicable. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Matt Peterson
Senior Counsel*

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

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

ASSEMBLY, No. 2694

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

SYNOPSIS

Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/31/2018)

1 AN ACT concerning the creation of stormwater utilities and
2 amending and supplementing various parts of the statutory law.

3

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

6

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

9 2. It is hereby declared to be in the public interest and to be the
10 policy of the State to foster and promote by all reasonable means
11 the relief of waters in or bordering the State from pollution and thus
12 to reduce and ultimately abate the menace to the public health
13 resulting from such pollution , and to promote the public health and
14 welfare through appropriate management of stormwater. It is the
15 purpose and object of this act to further and implement such policy
16 by:

17 (1) Authorizing counties, or municipalities either separately or
18 in combination with other municipalities, by means and through the
19 agency of a sewerage authority, to acquire, construct, maintain,
20 operate or improve: (a) works for the collection, treatment,
21 purification or disposal of sewage or other wastes [, and,] ; (b) if
22 necessary, works for the impounding, transportation and release of
23 water for the replenishment in periods of drought or at other
24 necessary times of all or a part of waters in or bordering the State
25 diverted into a sewer, sewage treatment or sewage disposal system
26 operated by the sewerage authority ; and (c) works for the
27 collection, storage, treatment, or disposal of stormwater; or to
28 contract with private firms for the operation or improvement of
29 works for the collection, storage, treatment, or disposal of
30 stormwater;

31 (2) Authorizing service charges to occupants or owners of
32 property for direct or indirect connection with and the use or
33 services of such works, and providing for the establishment,
34 collection and enforcement of such charges;

35 (3) Creating as a body corporate and politic sewerage authorities
36 to have full responsibility and powers with respect to such works
37 and the establishment, collection, enforcement, use and disposition
38 of all such service charges;

39 (4) Providing for the financing of such works, for the issuance
40 of bonds therefor, and for the payment and security of such bonds;
41 and

42 (5) In general, granting to counties and municipalities and to
43 such sewerage authorities discretionary powers to provide for
44 sewerage services designed to relieve pollution of such waters and
45 for management of stormwater at the expense of the users of such

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 services or of counties or municipalities or other persons
2 contracting for or with respect to the same.

3 It is further declared that the acquisition, construction, operation,
4 and maintenance of stormwater management systems are essential
5 to the goals of protecting and improving the State's water quality,
6 and are necessary to prevent and abate nonpoint sources of
7 pollution, minimize stormwater runoff, control flooding, and
8 enhance groundwater recharge.

9 (cf: P.L.1953, c.177, s.2)

10

11 2. Section 3 of P.L.1946, c.138 (C.40:14A-3) is amended to
12 read as follows:

13 3. As used in **[this act]** P.L.1946, c. 138 (C.40:14A-1 et seq.),
14 unless a different meaning clearly appears from the context:

15 (1) "Municipality" shall mean any city of any class, any
16 borough, village, town, township, or any other municipality other
17 than a county or a school district, and except when used in section 4
18 of P.L.1946, c.138 (C.40:14A-4) or section 21 of [this act]
19 P.L.1946, c.138 (C.40:14A-21), any agency thereof or any two or
20 more thereof acting jointly or any joint meeting or other agency of
21 any two or more thereof;

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

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

32 (4) "Person" shall mean any person, association, corporation,
33 nation, State or any agency or subdivision thereof, other than a
34 county or municipality of the State or a sewerage authority;

35 (5) "Sewerage or water reclamation authority" shall mean a
36 public body created pursuant to section 4 of **[this act]** P.L.1946, c.
37 138 (C.40:14A-4);

38 (6) Subject to the exceptions provided in section 4 of **[this act]**
39 P.L.1946, c. 138 (C.40:14A-4), "district" shall mean the area within
40 the territorial boundaries of the county, or of the municipality or
41 municipalities, which created or joined in the creation of a sewerage
42 authority;

43 (7) "Local unit" shall mean the county, or any municipality,
44 which created or joined in the creation of a sewerage authority;

45 (8) "Sewerage system" shall mean the plants, structures, on-site
46 waste-water systems, and other real and personal property acquired,
47 constructed, maintained or operated or to be acquired, constructed,
48 maintained or operated by a sewerage authority for the purposes of

1 the sewerage authority, including sewers, conduits, pipe lines,
2 mains, pumping and ventilating stations, sewage treatment or
3 disposal systems, plants and works, connections, and outfalls,
4 compensating reservoirs, and other plants, structures, boats,
5 conveyances, and other real and personal property, and rights
6 therein, and appurtenances necessary or useful and convenient for
7 the management of stormwater, or the collection, treatment,
8 purification or disposal in a sanitary manner of any sewage, liquid
9 or solid wastes, night soil or industrial wastes;

10 (9) "Cost" shall mean, in addition to the usual connotations
11 thereof, the cost of acquisition or construction of all or any part of a
12 sewerage system and of all or any property, rights, easements,
13 privileges, agreements and franchises deemed by the sewerage
14 authority to be necessary or useful and convenient therefor or in
15 connection therewith and the cost of retiring the present value of the
16 unfunded accrued liability due and owing by a sewerage authority,
17 as calculated by the system actuary for a date certain upon the
18 request of a sewerage authority, for early retirement incentive
19 benefits granted by the sewerage authority pursuant to P.L.1991,
20 c.230 and P.L.1993, c.181, including interest or discount on bonds,
21 cost of issuance of bonds, engineering and inspection costs and
22 legal expenses, costs of financial, professional and other estimates
23 and advice, organization, administrative, operating and other
24 expenses of the sewerage authority prior to and during such
25 acquisition or construction, and all such other expenses as may be
26 necessary or incident to the financing, acquisition, construction and
27 completion of said sewerage system or part thereof and the placing
28 of the same in operation, and also such provision or reserves for
29 working capital, operating, maintenance or replacement expenses or
30 for payment or security of principal of or interest on bonds during
31 or after such acquisition or construction as the sewerage authority
32 may determine, and also reimbursements to the sewerage authority
33 or any county, municipality or other person of any moneys
34 theretofore expended for the purposes of the sewerage authority or
35 to any county or municipality of any moneys theretofore expended
36 for in connection with sanitation facilities;

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

40 (11) "Construct" and "construction" shall connote and include
41 acts of construction, reconstruction, replacement, extension,
42 improvement and betterment of a sewerage system;

43 (12) "Industrial wastes" shall mean liquid or other wastes
44 resulting from any processes of industry, manufacture, trade or
45 business or from the development of any natural resource;

46 (13) "Sewage" shall mean the water-carried wastes created in
47 and carried, or to be carried, away from, or to be processed by on-
48 site wastewater systems, residences, hotels, apartments, schools,

1 hospitals, industrial establishments, or any other public or private
2 building, together with such surface or ground water and industrial
3 wastes as may be present;

4 (14) "On-site wastewater system" means any of several works,
5 facilities, septic tanks or other devices, used to collect, treat,
6 reclaim, or dispose of wastewater or sewage on or adjacent to the
7 property on which the wastewater or sewage is produced, or to
8 convey such wastewater or sewage from said property to such
9 facilities as the authority may establish for its disposal;

10 (15) "Pollution" means the condition of water resulting from the
11 introduction therein of substances of a kind and in quantities
12 rendering it detrimental or immediately or potentially dangerous to
13 the public health, or unfit for public or commercial use;

14 (16) "Ordinance" means a written act of the governing body of a
15 municipality adopted and otherwise approved and published in the
16 manner or mode of procedure prescribed for ordinances tending to
17 obligate such municipality pecuniarily;

18 (17) "Resolution" means a written act of the governing body of a
19 local unit adopted and otherwise approved in the manner or mode of
20 procedure prescribed for resolutions tending to obligate such local
21 unit pecuniarily;

22 (18) "Bonds" shall mean bonds or other obligations issued
23 pursuant to **[this act; and]** P.L.1946, c. 138 (C.40:14A-1 et seq.);

24 (19) "Compensating reservoir" shall mean the structures,
25 facilities and appurtenances for the impounding, transportation and
26 release of water for the replenishment in periods of drought or at
27 other necessary times of all or a part of waters in or bordering the
28 State diverted into a sewer, sewage treatment or sewage disposal
29 system operated by the sewerage authority;

30 (20) "Stormwater" shall mean water resulting from precipitation
31 that: (a) runs off of the land's surface; (b) is transmitted to the
32 subsurface; (c) is captured by separate storm sewers or other
33 sewerage or drainage facilities; or (d) is conveyed by snow removal
34 equipment; and

35 (21) "Stormwater management system" shall mean any
36 equipment, plant, structures, machinery, apparatus, management
37 practices, design practices, planning activities, or land, or any
38 combination thereof, acquired, used, constructed, implemented, or
39 operated to convey stormwater, control or reduce stormwater runoff
40 and associated pollutants or flooding, induce or control the
41 infiltration of groundwater recharge of stormwater, or eliminate
42 illicit or illegal nonstormwater discharges into stormwater
43 conveyances.

44 (cf: P.L.2002, c.42, s.4)

45

46 3. Section 6 of P.L.1946, c.138 (C.40:14A-6) is amended to
47 read as follows:

1 6. (a) The purposes of every sewerage authority shall be (1)
2 the relief of waters in or bordering the State from pollution arising
3 from causes within the district and the relief of waters in, bordering
4 or entering the district from pollution or threatened pollution, and
5 the consequent improvement of conditions affecting the public
6 health , and (2) the promotion of the public health and welfare
7 through appropriate management of stormwater.

8 (b) Every sewerage authority is hereby authorized and directed,
9 subject to the limitations of **【this act】** P.L.1946, c.138 (C.40:14A-1
10 et seq.), to acquire, in its own name but for the local unit or units,
11 by purchase, gift, condemnation or otherwise, and, notwithstanding
12 the provisions of any charter, ordinance or resolution of any county
13 or municipality to the contrary, to construct, maintain, operate and
14 use such trunk, intercepting and outlet sewers, conduits, pipelines,
15 pumping and ventilating stations, treatment plants or works , or
16 stormwater management systems at such places within or without
17 the district, such compensating reservoirs within the county in
18 which the district lies, and such other plants, structures, boats and
19 conveyances, as in the judgment of the sewerage authority will
20 provide an effective and satisfactory method for promoting the
21 purposes of the sewerage authority.

22 (c) Every sewerage authority is hereby authorized and directed,
23 when in its judgment its sewerage system or any part thereof will
24 permit, to collect from any and all public systems within the
25 district all sewage and stormwater, and treat and dispose of the
26 same in such manner as to promote the purposes of the sewerage
27 authority.

28 (cf: P.L.1953, c.177, s.4)

29

30 4. (New section) a. Every sewerage authority is hereby
31 authorized to charge and collect rents, rates, fees, or other charges
32 for direct or indirect use or services of its stormwater management
33 system. The stormwater service charges may be charged to and
34 collected from the owner or occupant, or both, of any real property.
35 The owner of any real property shall be liable for and shall pay the
36 stormwater service charges to the sewerage authority at the time
37 when and place where these charges are due and payable. The
38 rents, rates, fees, and charges shall be determined in a manner
39 consistent with the stormwater utility guidance manual created by
40 the Department of Environmental Protection pursuant to section 24
41 of P.L. , c. (C.) (pending before the Legislature as this bill).

42 b. Any stormwater service charge imposed pursuant to
43 subsection a. of this section shall be calculated in a manner
44 consistent with the guidance provided in the stormwater utility
45 guidance manual created by the Department of Environmental
46 Protection pursuant to section 24 of P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 5. Section 9 of P.L.1946, c.138 (C.40:14A-9) is amended to
2 read as follows:

3 9. a. Any local unit shall have power, in the discretion of its
4 governing body, to appropriate moneys for the purposes of the
5 sewerage authority, and to loan or donate such moneys to the
6 sewerage authority in such installments and upon such terms as may
7 be agreed upon between such local unit and the sewerage authority.

8 b. Subject to section 29 of **【this act】** P.L.1946, c.138
9 (C.40:14A-29), any local unit shall have the power to authorize as a
10 general improvement or, in the case of a local unit which is a
11 municipality, as a local improvement the construction and financing
12 of any facilities for the collection, storage, treatment and disposal of
13 sewage or stormwater arising within a district. Subject to the
14 consent and approval of the sewerage authority, such facilities may
15 be operated by the local unit and the local unit may fix rates and
16 charges for the use thereof, in addition to the payment of special
17 assessments levied by a municipality against lands and real estate
18 specially benefited by such improvements. As provided in section
19 22 of **【this act】** P.L.1946, c.138 (C.40:14A-22), such facilities may
20 be acquired and operated by the sewerage authority as part of the
21 sewerage system, notwithstanding that special assessments may be
22 or may have been levied for such improvements by a municipality.
23 (cf: P.L.1970, c.209, s.1)
24

25 6. Section 23 of P.L.1946, c.138 (C.40:14A-23) is amended to
26 read as follows:

27 23. Any sewerage authority, for the carrying out and
28 effectuation of its purposes, and (a) any of the local units or (b) any
29 other municipality whether within or without the district, and (c)
30 any other sewerage authority, any municipal authority or any other
31 public body of the State empowered to collect, store, treat or
32 dispose of sewage or stormwater (all such local units,
33 municipalities, other sewerage authorities, municipal authorities and
34 other public bodies being hereinafter referred to individually as a
35 "governmental unit") for fostering the relief of waters in, bordering
36 or entering the territorial area of the governmental unit from
37 pollution or threatened pollution, promoting the public health and
38 welfare through appropriate management of stormwater, or assisting
39 the sewerage authority in carrying out and effectuating its purposes
40 may enter into a contract or contracts providing for or relating to
41 the collection, storage, treatment and disposal of sewage or
42 stormwater originating in the district or received by the sewerage
43 authority, or originating in the territorial area of or collected by the
44 governmental unit, by means of the sewerage system or any sewage
45 or stormwater facilities of the governmental unit or both, and the
46 cost and expense of such collection, storage, treatment and disposal,
47 or may enter into a contract with a private firm for the operation or
48 improvement of works for the collection, storage, treatment or

1 disposal of stormwater, and the cost and expense of such collection,
2 storage, treatment and disposal. Such contract or contracts may
3 provide for the payment to the sewerage authority by the
4 governmental unit annually or otherwise of such sum or sums of
5 money, computed at fixed amounts or by a formula based on any
6 factors or other matters described in subsection (b) of section 8 of
7 **【this act】** P.L.1946, c.138 (C.40:14A-8) or section 4 of
8 P.L. , c. (C.) (pending before the Legislature as this bill) or
9 in any other manner, as said contract or contracts may provide, and
10 the sum or sums so payable may include provision for all or any
11 part or a share of the amounts necessary (1) to pay or provide for
12 the expenses of operation and maintenance of the sewerage system,
13 including without limitation insurance, extension, betterments and
14 replacements and the principal of and interest on any bonds, and
15 (2) to provide for any deficits resulting from failure to receive
16 sums payable to the sewerage authority by such governmental unit,
17 any other governmental unit or county, or any person, or from any
18 other cause, and (3) to maintain such reserves or sinking funds for
19 any of the foregoing as may be required by the terms of any
20 contract of the sewerage authority or as may be deemed necessary
21 or desirable by the sewerage authority. Any such contract may
22 provide that the sum or sums so payable to the sewerage authority
23 shall be in lieu of all or any part of the service charges which
24 would otherwise be charged and collected by the sewerage authority
25 with regard to persons or real property within the territorial area of
26 the governmental unit. Such contract or contracts may also contain
27 provisions as to the financing and payment of expenses to be
28 incurred by the sewerage authority and determined by it to be
29 necessary for its purposes prior to the placing in operation of the
30 sewerage system and may provide for the payment by the
31 governmental unit to the sewerage authority for application to such
32 expenses or indebtedness therefor such sum or sums of money,
33 computed as said contract or contracts may provide and as the
34 governing body (hereinafter described) of the governmental unit
35 shall, by virtue of its authorization of and entry into said contract or
36 contracts, determine to be necessary for the purposes of the
37 sewerage authority. Every such contract shall be authorized and
38 entered into under and pursuant to a resolution adopted by the
39 authority in the case of a sewerage or other authority, an ordinance
40 of the governing body in the case of a municipality, a resolution of
41 the governing body in the case of a county, and, in the case of any
42 other public body, a resolution of the commission, council, board or
43 body by whatever name it may be known (in this section sometimes
44 referred to as "governing body") having charge of the finances of
45 such public body, but the terms or text of said contract need not be
46 set forth in full or stated in any such resolution or ordinance if the
47 form of said contract is on file in the office of the clerk or other
48 recording officer of the governmental unit or its governing body

1 and the place and fact of such filing is described in the resolution or
2 ordinance. Any such contract may be made with or without
3 consideration and for a specified or an unlimited time and on any
4 terms and conditions which may be approved by or on behalf of the
5 governmental unit and which may be agreed to by the sewerage
6 authority in conformity with its contracts with the holders of any
7 bonds, and shall be valid whether or not an appropriation with
8 respect thereto is made by the governmental unit prior to
9 authorization or execution thereof. Any contract heretofore or
10 hereafter entered into pursuant to authority of this section shall be
11 valid and shall be binding upon the parties thereto whether or not
12 the terms or text of said contract had been set forth in full or stated
13 in any ordinance or resolution authorizing such contract provided
14 the form of such contract had been filed as aforesaid and the place
15 and fact of such filing was described in such ordinance. Every such
16 governmental unit is hereby authorized and directed to do and
17 perform any and all acts or things necessary, convenient or
18 desirable to carry out and perform every such contract and to
19 provide for the payment or discharge of any obligation thereunder
20 in the same manner as other obligations of such governmental unit.
21 Subject to any such contracts with the holders of bonds, the
22 sewerage authority is hereby authorized to do and perform any and
23 all acts or things necessary, convenient or desirable to carry out and
24 perform every such contract and, in accordance with any such
25 contract, to waive, modify, suspend or reduce the service charges
26 which would otherwise be charged and collected by the sewerage
27 authority with regard to persons or real property within the
28 territorial area of the governmental unit, but nothing in this section
29 or any such contract shall prevent the sewerage authority from
30 charging and collecting, as if such contract had not been made,
31 service charges with regard to such persons and real property
32 sufficient to meet any default or deficiency in any payments agreed
33 in such contract to be made by the governmental unit.

34 (cf: P.L.1974, c.165, s.1)

35

36 7. Section 26 of P.L.1946, c.138 (C.40:14A-26) is amended to
37 read as follows:

38 26. (a) Each county and municipality within the district, and
39 every person owning or operating any sewer or drain or any system
40 of water distribution serving three or more parcels of real property
41 in the district, shall at the request of the sewerage authority make
42 available to the sewerage authority any and all of its maps, plans,
43 specifications, records, books, accounts or other data or things
44 deemed necessary by the sewerage authority for its purposes.

45 (b) Each county, municipality and other public body shall
46 promptly pay to any sewerage authority all service charges which
47 the sewerage authority may charge to it, as owner or occupant of
48 any real property, in accordance with section [eight of this act] 8 of

1 P.L.1946, c.138 (C.40:14A-8) or section 4 of P.L. , c. (C.)
2 (pending before the Legislature as this bill), and shall provide for
3 the payment thereof in the same manner as other obligations of such
4 county, municipality or public body.

5 (c) Each county, municipality and other person owning or
6 operating any sewer or drain which serves three or more parcels of
7 real property in the district and which discharges sewage or
8 stormwater into waters in or bordering the State shall, upon notice
9 from the sewerage authority of its availability and a proposed point
10 of connection with the sewerage system, cause such sewer or drain
11 to be connected with the sewerage system at such point and in such
12 manner as the sewerage authority may specify and shall thereafter
13 cause said sewer or drain to discharge into the sewerage system.

14 (d) Each county, municipality and other person owning or
15 operating any system of water distribution serving three or more
16 parcels of real property in the district shall, from time to time after
17 request therefor by the sewerage authority, deliver to the sewerage
18 authority copies of the records made by it in the regular course of
19 business of the amount of water supplied by it to every such parcel
20 of real property in the district. Such copies shall be delivered to the
21 sewerage authority within sixty days after the making of such
22 records, and the sewerage authority shall pay the reasonable cost of
23 preparation and delivery of such copies.

24 (e) Each county and municipality owning or operating any
25 system of water distribution serving three or more parcels of real
26 property in the district shall, and every other person owning or
27 operating any such system may, and is hereby authorized to enter
28 into and perform a contract with the sewerage authority that it will,
29 upon request by the sewerage authority specifying a parcel of real
30 property in the district with regard to which a service charge under
31 section **【eight of this act】** 8 of P.L.1946, c.138 (C.40:14A-8) or
32 section 4 of P.L. , c. (C.) (pending before the Legislature as
33 this bill) is unpaid, cause the supply of water from its system to
34 such parcel of real property to be stopped or restricted, as the
35 sewerage authority may request, until such service charge and any
36 subsequent service charge with regard to such parcel and the
37 interest accrued thereon shall be fully paid or until the sewerage
38 authority directs otherwise. No such county, municipality or other
39 person shall be liable for any loss, damage or other claim based on
40 or arising out of the stopping or restricting of such supply, and the
41 sewerage authority shall pay the reasonable cost of so stopping or
42 restricting such supply and of restoring the same and may agree to
43 indemnify such county, municipality or other person from all loss or
44 damage by reason of such stopping or restriction, including loss of
45 profits.

46 (cf: P.L.1946, c.138, s.26)

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

3 2. It is hereby declared to be in the public interest and to be the
4 policy of the State to foster and promote by all reasonable means;
5 the provision and distribution of an adequate supply of water for the
6 public and private uses of counties and municipalities and their
7 inhabitants, the collection, disposal and recycling of solid waste,
8 including sewage sludge, in an environmentally sound manner, the
9 relief of lands and waters in or bordering the State from pollution,
10 from domestic, industrial and other sources, including pollution
11 derived from chemical and hazardous wastes, and thus the reduction
12 and ultimate abatement of the menace to the public health resulting
13 from such pollution **[, and]** the generation of hydroelectric
14 power, and the promotion of the public health and welfare through
15 appropriate management of stormwater. It is the purpose and object
16 of this act to further and implement such policy by:

17 (1) Authorizing counties, or municipalities either separately or
18 in combination with other municipalities, by means and through the
19 agency of a municipal authority, to acquire, construct, maintain,
20 operate or improve works for the accumulation, supply or
21 distribution of water, works for the collection, treatment, recycling,
22 and disposal of solid wastes, works for the collection, treatment,
23 purification or disposal of sewage or other wastes, works for the
24 collection, storage, treatment, or disposal of stormwater, and works
25 for the generation of hydroelectric power , or to contract with
26 private firms for the operation or improvement of works for the
27 collection, storage, treatment, or disposal of stormwater;

28 (2) Authorizing service charges to occupants or owners of
29 property for direct or indirect connection with and the use, products
30 or services of such works, and providing for the establishment,
31 collection and enforcement of such charges;

32 (3) Creating as bodies corporate and politic municipal
33 authorities to have full responsibility and powers with respect to
34 such works and the establishment, collection, enforcement, use and
35 disposition of all such service charges;

36 (4) Providing for the financing of such works, for the issuance
37 of bonds therefor, and for the payment and security of such bonds;
38 and

39 (5) In general, granting to counties and municipalities and to
40 such municipal authorities discretionary powers to provide for
41 utility services designed to provide or distribute such a supply of
42 water, to recycle or dispose of solid waste, to relieve pollution of
43 such waters in or bordering the State , or to manage stormwater, at
44 the expense of the users of such services or of counties or
45 municipalities or other persons contracting for or with respect to the
46 same or to generate hydroelectric power.

47 It is further declared that the acquisition, construction, operation,
48 and maintenance of stormwater management systems are essential

1 to the goals of protecting and improving the State's water quality,
2 and are necessary to prevent and abate nonpoint sources of
3 pollution, minimize stormwater runoff, control flooding, and
4 enhance groundwater recharge.

5 (cf: P.L.1980, c.34, s.2)

6
7 9. 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]** P.L.1957, c.183 (C.40:14B-1 et seq.),
10 unless a different meaning clearly 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]** P.L.1957, c.183
15 (C.40:14B-4, C.40:14B-5, C.40:14B-6, C.40:14B-11, C.40:14B-12,
16 C.40:14B-13, C.40:14B-42, and C.40:14B-45), any agency thereof
17 or any two or more thereof acting jointly or any joint meeting or
18 other agency of any two or more thereof;

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

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

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

32 (5) "Municipal authority," "authority," or "water reclamation
33 authority" shall mean a public body created or organized pursuant
34 to section 4, 5 or 6 of **[this act]** P.L.1957, c.183 (C.40:14B-4,
35 C.40:14B-5, and C.40:14B-6) and shall include a municipal utilities
36 authority created by one or more municipalities and a county
37 utilities authority created by a county;

38 (6) Subject to the exceptions provided in section 10, 11 or 12 of
39 **[this act]** P.L.1957, c.183 (C.40:14B-10, C.40:14B-11, and
40 C.40:14B-12), "district" shall mean the area within the territorial
41 boundaries of the county, or of the municipality or municipalities,
42 which created or joined in or caused the creation or organization of
43 a municipal authority;

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

47 (8) "Water system" shall mean the plants, structures and other
48 real and personal property acquired, constructed or operated or to be

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

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

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

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

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

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

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

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

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

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

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

38 (18) "Bonds" shall mean bonds or other obligations issued
39 pursuant to **【this act】** P.L.1957, c.183 (C.40:14B-1 et seq.);

40 (19) "Service charges" shall mean water service charges, solid
41 waste service charges, sewer service charges, stormwater service
42 charges, hydroelectric service charges or any combination of such
43 charges, as said terms are defined in **【section 21 or 22 of this act or**
44 **in section 7 of this amendatory and supplementary act】** section 21
45 or 22 of P.L.1957, c.183 (C.40:14B-21 and C.40:14B-22), section
46 15 of P.L.1977, c.384 (C.40:14B-22.1), section 13 of
47 P.L. , c. (C.) (pending before the Legislature as this bill),
48 or section 7 of P.L.1980, c.34 (C.40:14B-21.1);

1 (20) "Compensating reservoir" shall mean the structures,
2 facilities and appurtenances for the impounding, transportation and
3 release of water for the replenishment in periods of drought or at
4 other necessary times of all or a part of waters in or bordering the
5 State diverted into a utility system operated by a municipal
6 authority;

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

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

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

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

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

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

43 (27) "Recycling" shall mean the separation, collection,
44 processing or recovery of metals, glass, paper, solid waste and other
45 materials for reuse or for energy production and shall include
46 resource recovery;

47 (28) "Sludge" shall mean any solid, semisolid, or liquid waste
48 generated from a municipal, industrial or other sewage treatment

1 plant, water supply treatment plant, or air pollution control facility,
2 or any other such waste having similar characteristics and effects;
3 "sludge" shall not include effluent;

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

13 (30) "Solid waste system" shall mean and include the plants,
14 structures and other real and personal property acquired,
15 constructed or operated or to be acquired, constructed or operated
16 by an authority or by any person to whom a municipal authority has
17 extended credit for this purpose pursuant to the provisions of **[this**
18 **act]** P.L.1957, c.183 (C.40:14B-1 et seq.), including transfer
19 stations, incinerators, recycling facilities, including facilities for the
20 generation, transmission and distribution of energy derived from the
21 processing of solid waste, sanitary landfill facilities or other
22 property or plants for the collection, recycling or disposal of solid
23 waste and all vehicles, equipment and other real and personal
24 property and rights thereon and appurtenances necessary or useful
25 and convenient for the collection, recycling, or disposal of solid
26 waste in a sanitary manner;

27 (31) "Hydroelectric system" shall mean the plants, structures and
28 other real and personal property acquired, constructed or operated
29 or to be acquired, constructed or operated by an authority pursuant
30 to the provisions of **[this act]** P.L.1957, c.183 (C.40:14B-1 et seq.),
31 including all that which is necessary or useful and convenient for
32 the generation, transmission and sale of hydroelectric power at
33 wholesale;

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

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

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

43 (35) "Alternative electrical energy system" shall mean any
44 system which uses alternative electrical energy to provide all or a
45 portion of the electricity for the heating, cooling, or general
46 electrical energy needs of a building;

47 (36) "Pilot county" shall mean a county of the second class
48 having a population between 280,000 and 290,000, a population

1 between 510,000 and 520,000, and a population between 530,000
2 and 540,000 according to the 2010 federal decennial census; **[and]**

3 (37) "Pilot county utilities authority" shall mean a county
4 utilities authority in a county designated as a pilot county;

5 (38) "Stormwater" shall mean water resulting from precipitation
6 that: (a) runs off of the land's surface; (b) is transmitted to the
7 subsurface; (c) is captured by separate storm sewers or other
8 sewerage or drainage facilities; or (d) is conveyed by snow removal
9 equipment; and

10 (39) "Stormwater management system" shall mean any
11 equipment, plant, structures, machinery, apparatus, management
12 practices, design practices, planning activities, or land, or any
13 combination thereof, acquired, used, constructed, implemented, or
14 operated to convey stormwater, control or reduce stormwater runoff
15 and associated pollutants or flooding, induce or control the
16 infiltration of groundwater recharge of stormwater, or eliminate
17 illicit or illegal nonstormwater discharges into stormwater
18 conveyances.

19 (cf: P.L.2013, c.190, s.3)

20

21 10. Section 6 of P.L.1957, c.183 (C.40:14B-6) is amended to
22 read as follows:

23 6. a. The governing body of any municipality which shall have
24 created a sewerage authority may, by ordinance duly adopted,
25 provide and determine that said sewerage authority shall be
26 reorganized as a municipal authority and thereupon and thereby
27 cause said sewerage authority to be organized as a public body
28 corporate and politic existing under and by virtue of **[this act]**
29 P.L.1957, c.183 (C.40:14B-1 et seq.).

30 b. In any county which has created a sewerage authority or a
31 county sewer authority or authorities, each such authority shall be
32 reorganized as a county utilities authority and shall be continued as
33 a public body corporate and politic existing under and by virtue of
34 the municipal authorities law, P.L.1957, c.183 (C.40:14B-1 et seq.).
35 The governing body of any county wherein a sewerage authority or
36 a county sewer authority or authorities was reorganized pursuant to
37 this section shall record such reorganization by resolution and file
38 such resolution with the Secretary of State pursuant to section 7 of
39 **[this act]** P.L.1957, c.183 (C.40:14B-7).

40 c. No authority reorganized pursuant to this section shall
41 acquire, construct, maintain, operate or improve a water system, a
42 solid waste system, a stormwater management system, or a
43 hydroelectric system until such time as the governing body
44 authorizes such action, by ordinance in the case of a municipality,
45 or by resolution in the case of a county.

46 d. Said body shall consist of the members of said sewerage
47 authority or of said county sewer authority holding office at the
48 time of such organization, together with successors in such

1 membership appointed as if said sewerage authority or county
2 sewer authority had originally been created pursuant to section 4 of
3 **【this act】** P.L.1957, c.183 (C.40:14B-4), and, upon the passage of
4 **【this amendatory and supplementary act】** P.L.1980, c.34 or upon
5 the taking effect of such ordinance and the filing of a certified copy
6 thereof as in section 7 of **【this act】** P.L.1957, c.183 (C.40:14B-7)
7 provided, said body shall constitute a municipal authority
8 contemplated and provided for in **【this act】** P.L.1957, c.183
9 (C.40:14B-1 et seq.) and an agency and instrumentality of said
10 municipality or county. Said body as such municipal authority shall
11 have all of the rights and powers granted and be subject to all the
12 duties and obligations imposed by **【this act】** P.L.1957, c.183
13 (C.40:14B-1 et seq.) and, subject to the rights (if any) of the
14 holders of any bonds or other obligations of said sewerage authority
15 or county sewer authority theretofore issued, said body shall be the
16 successor in all respects to said sewerage authority or county sewer
17 authority and forthwith succeed to all of the rights, property, assets
18 and franchises of said sewerage authority or county sewer authority
19 and the said bonds or other obligations of said sewerage authority
20 or county sewer authority shall be assumed by and become the
21 obligations of said municipal authority, and the property of said
22 sewerage authority or county sewer authority shall be vested in said
23 municipal authority. Said body may at any time, by resolution duly
24 adopted, change its corporate name and adopt the name and style of
25 "the .municipal utilities authority" with the name of said
26 municipality or county inserted.

27 (cf: P.L.1985, c.537, s.1)

28

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

31 19. (a) The purposes of every municipal authority shall be (1)
32 the provision and distribution of an adequate supply of water for the
33 public and private uses of the local units, and their inhabitants,
34 within the district, **【and】** (2) the relief of waters in or bordering the
35 State from pollution arising from causes within the district and the
36 relief of waters in, bordering or entering the district from pollution
37 or threatened pollution, and the consequent improvement of
38 conditions affecting the public health, (3) the provision of sewage
39 collection and disposal service within or without the district, **【and】**
40 (4) the provision of water supply and distribution service in such
41 areas without the district as are permitted by the provisions of **【this**
42 **act】** P.L.1957, c.183 (C.40:14B-1 et seq.), **【and】** (5) the provision
43 of solid waste services and facilities within or without the district in
44 a manner consistent with the "Solid Waste Management Act,"
45 P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the
46 solid waste management plans adopted by the solid waste
47 management districts created therein, **【and】** (6) the generation,

1 transmission and sale of hydroelectric power at wholesale, (7) the
2 operation and maintenance of utility systems owned by other
3 governments located within the district through contracts with said
4 governments, **and** (8) the provision of stormwater management
5 services within or without the district, and (9) in the case of an
6 authority that is a pilot county utilities authority, to fund
7 improvements to county infrastructure pursuant to the provisions of
8 subsection b. of section 40 of P.L.1957, c.183 (C.40:14B-40).

9 (b) Every municipal authority is hereby authorized, subject to
10 the limitations of **this act** P.L.1957, c.183 (C.40:14B-1 et seq.), to
11 acquire, in its own name but for the local unit or units, by purchase,
12 gift, condemnation or otherwise, lease as lessee, and,
13 notwithstanding the provisions of any charter, ordinance or
14 resolution of any county or municipality to the contrary, to
15 construct, maintain, operate and use such reservoirs, basins, dams,
16 canals, aqueducts, standpipes, conduits, pipelines, mains, pumping
17 and ventilating stations, treatment, purification and filtration plants
18 or works, trunk, intercepting and outlet sewers, water distribution
19 systems, waterworks, sources of water supply and wells , and
20 stormwater management systems at such places within or without
21 the district, such compensating reservoirs within a county in which
22 any part of the district lies, and such other plants, structures, boats
23 and conveyances, as in the judgment of the municipal authority will
24 provide an effective and satisfactory method for promoting
25 purposes of the municipal authority.

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

31 (d) Every municipal utilities authority is authorized to promote
32 the production and use of alternative electrical energy by
33 contracting with producers of alternative electrical energy for the
34 installation, construction, maintenance, repair, renewal, relocation,
35 or removal of alternative electrical energy systems, and for the
36 purchase of excess alternative electrical energy generated by a
37 producer of alternative electrical energy. Any purchase or sale of
38 alternative electrical energy where such energy is distributed using
39 the infrastructure of a public utility, as that term is defined in
40 R.S.48:2-13, shall include the payment by the purchaser of all
41 relevant non-bypassable charges as provided for in the "Electric
42 Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49
43 et al.).

44 (cf: P.L.2013, c.190, s.4)

45

46 12. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to
47 read as follows:

1 20. Every municipal authority shall be a public body politic and
2 corporate constituting a political subdivision of the State
3 established as an instrumentality exercising public and essential
4 governmental functions to provide for the public health and welfare
5 and shall have perpetual succession and have the following powers:

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

8 (2) To sue and be sued;

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

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

15 (5) In the name of the municipal authority but for the local unit
16 or units and subject to the limitations of **【this act】** P.L.1957, c.183
17 (C.40:14B-1 et seq.), to acquire by purchase, gift, condemnation or
18 otherwise, or lease as lessee, real property and easements therein,
19 necessary or useful and convenient for the purposes of the
20 municipal authority, and subject to mortgages, deeds of trust or
21 other liens, or otherwise, and to hold, lease as lessor, and to use the
22 same, and to dispose of property so acquired no longer necessary
23 for the purposes of the municipal authority;

24 (6) To produce, develop, purchase, accumulate, distribute and
25 sell water and water services, facilities and products within or
26 without the district, provided that no water shall be sold at retail in
27 any municipality or county without the district unless the governing
28 body of such municipality or county shall have adopted a resolution
29 requesting the municipal authority to sell water at retail in such
30 municipality or county, and the board of public utility
31 commissioners shall have approved such resolution as necessary
32 and proper for the public convenience;

33 (7) To provide for and secure the payment of any bonds and the
34 rights of the holders thereof, and to purchase, hold and dispose of
35 any bonds;

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

41 (9) To enter on any lands, waters or premises for the purpose of
42 making surveys, borings, soundings and examinations for the
43 purposes of the municipal authority, and whenever the operation of
44 a septic tank or other component of an on-site wastewater system
45 shall result in the creation of pollution or contamination source on
46 private property such that under the provisions of R.S.26:3-49, a
47 local board of health would have the authority to notify the owner
48 and require said owner to abate the same, representatives of an

1 authority shall have the power to enter, at all reasonable times, any
2 premises on which such pollution or contamination source shall
3 exist, for the purpose of inspecting, rehabilitating, securing samples
4 of any discharges, improving, repairing, replacing, or upgrading
5 such septic tank or other component of an on-site wastewater
6 system;

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

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

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

29 (13) To do and perform any acts and things authorized by **[this**
30 **act]** P.L.1957, c.183 (C.40:14B-1 et seq.) under, through or by
31 means of its own officers, agents and employees, or by contracts
32 with any person;

33 (14) To enter into any and all contracts, execute any and all
34 instruments, and do and perform any and all acts or things
35 necessary, convenient or desirable for the purposes of the municipal
36 authority or to carry out any power expressly given in **[this act]**
37 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to the "Local Public
38 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

39 (15) To extend credit or make loans to any person for the
40 planning, designing, acquiring, constructing, reconstructing,
41 improving, equipping, furnishing, and operating by that person of
42 any part of a solid waste system, stormwater management system,
43 sewage treatment system, wastewater treatment or collection system
44 for the provision of services and facilities within or without the
45 district, which in the case of a solid waste system shall be in a
46 manner consistent with the "Solid Waste Management Act,"
47 P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the
48 solid waste management plans adopted by the solid waste

1 management districts created therein. The credits or loans may be
2 secured by loan and security agreements, mortgages, leases and any
3 other instruments, upon such terms as the authority shall deem
4 reasonable, including provision for the establishment and
5 maintenance of reserve and insurance funds, and to require the
6 inclusion in any mortgage, lease, contract, loan and security
7 agreement or other instrument, provisions for the construction, use,
8 operation and maintenance and financing of that part of the
9 aforementioned systems as the authority may deem necessary or
10 desirable;

11 (16) Upon the request of a customer: (i) to offer the customer the
12 ability to receive or access, in electronic format, any periodic bill
13 for service sent by the municipal authority to its customers and any
14 additional information sent by the municipal authority to its
15 customers as required by law, provided that any notice of
16 disconnection, discontinuance or termination of service shall be
17 sent to a customer in written form at the customer's legal mailing
18 address in addition to being sent or being made available in
19 electronic format; and (ii) to provide the customer the option of
20 paying any such periodic bill via electronic means; and

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

25 (cf: P.L.2013, c.190, s.5)

26

27 13. (New section) a. Every municipal authority is hereby
28 authorized to charge and collect rents, rates, fees, or other charges
29 for stormwater management on any owner or occupant, or both, of
30 any real property situated in a constituent municipality to be
31 determined in a manner consistent with the stormwater utility
32 guidance manual created by the Department of Environmental
33 Protection pursuant to section 24 of P.L. , c. (C.) (pending
34 before the Legislature as this bill). The owner of any real property
35 shall be liable for and shall pay the stormwater service charges to
36 the municipal authority at the time when and place where these
37 charges are due and payable. The rents, rates, fees, and charges
38 shall be determined in a manner consistent with the stormwater
39 utility guidance manual created by the Department of
40 Environmental Protection pursuant to section 24 of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42 b. Any stormwater service charge imposed pursuant to
43 subsection a. of this section shall be calculated in a manner
44 consistent with the guidance provided in the stormwater utility
45 guidance manual created by the Department of Environmental
46 Protection pursuant to section 24 of P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 14. Section 24 of P.L.1957, c.183 (C.40:14B-24) is amended to
2 read as follows:

3 24. a. Any local unit shall have power, in the discretion of its
4 governing body, to appropriate moneys for the purposes of the
5 municipal authority, and to loan or donate such moneys to the
6 municipal authority in such installments and upon such terms as
7 may be agreed upon between such local unit and the municipal
8 authority.

9 b. Subject to section 61 of **[this act (C. 40:14B-60)] P.L.1957,**
10 c.183 (C.40:14B-61), any local unit shall have the power to
11 authorize as a general improvement or, in the case of a local unit
12 which is a municipality, as a local improvement the construction
13 and financing of any facilities for the collection, storage, treatment
14 and disposal of sewage or stormwater or for the collection,
15 recycling or disposal of solid waste within the district arising within
16 a district, or any facilities for the distribution of water within a
17 district. Subject to the consent and approval of the municipal
18 authority, such facilities may be operated by the local unit and the
19 local unit may fix rates and charges for the use thereof, in addition
20 to the payment of any special assessments levied by a municipality
21 against lands and real estate specially benefited by such
22 improvements. As provided in section 48 of **[this act] P.L.1957,**
23 c.183 (C.40:14B-48), such facilities may be acquired and operated
24 by the municipal authority as a part of the utility system,
25 notwithstanding that special assessments may be or may have been
26 levied for such improvements by a municipality.

27 (cf: P.L.1977, c.384, s.11)

28

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

31 44. In the event that a sewer service charge or stormwater
32 service charge of any municipal authority with regard to any parcel
33 of real property shall not be paid as and when due, the municipal
34 authority may, in accordance with section 57 of **[this act] P.L.1957,**
35 c.183 (C.40:14B-57), cause the supply of water to such parcel by
36 any county, municipality or other person to be stopped or restricted
37 until such sewer service charge or stormwater service charge and
38 any subsequent sewer service charge or stormwater service charge
39 with regard to such parcel and all interest accrued thereon shall be
40 fully paid to the municipal authority. If for any reason such supply
41 of water shall not be promptly stopped or restricted as required by
42 section 57 of **[this act] P.L.1957, c.183 (C.40:14B-57)**, the
43 municipal authority may itself shut off or restrict such supply and,
44 for that purpose, may enter on any lands, waters or premises of any
45 county, municipality or other person. Such supply of water to such
46 parcel shall, notwithstanding the provisions of this section, be
47 restored or increased if the **[State]** Department of Health, upon

1 application of the local board of health or health officer of the
2 municipality where such parcel is situate, shall after public hearing
3 find and shall certify to the municipal authority that the continuance
4 of such stopping or restriction of such supply of water endangers
5 the health of the public in such municipality.

6 (cf: P.L.1957, c.183, s.44)

7

8 16. Section 48 of P.L.1957, c.183 (C.40:14B-48) is amended to
9 read as follows:

10 Any county, by resolution of its governing body, or any
11 municipality, by ordinance of its governing body, or any other
12 person is hereby empowered, without any referendum, to sell, lease,
13 lend, grant or convey to any municipal authority, or to permit any
14 municipal authority to use, maintain or operate as part of the utility
15 system, any real or personal property owned by it, including all or
16 any part of any water supply, water distribution, stormwater
17 management, or sewerage facilities, which may be necessary or
18 useful and convenient for the purposes of the municipal authority
19 and accepted by the municipal authority. Any such sale, lease,
20 loan, grant, conveyance or permit may be made with or without
21 consideration and for a specified or an unlimited period of time and
22 under any agreement and on any terms and conditions which may
23 be approved by such county, municipality or other person and
24 which may be agreed to by the municipal authority in conformity
25 with its contracts with the holders of any bonds. Subject to any
26 such contracts with holders of bonds, the municipal authority may
27 enter into and perform any and all agreements with respect to
28 property so accepted by it, including agreements for the assumption
29 of principal or interest or both of indebtedness of such county,
30 municipality or other person or of any mortgage or lien existing
31 with respect to such property or for the operation and maintenance
32 of such property as part of the utility system.

33 (cf: P.L.1957, c.183, s.48)

34

35 17. Section 49 of P.L.1957, c.183 (C.40:14B-49) is amended to
36 read as follows:

37 49. Any municipal authority for the carrying out and
38 effectuation of its purposes, and (a) any of the local units (b) any
39 other municipality whether within or without the district and (c) any
40 other municipal authority, any sewerage authority or any other
41 public body of the State empowered to treat or dispose of sewage or
42 solid waste (all such local units, municipalities, other municipal
43 authorities, sewerage authorities and other bodies being hereinafter
44 referred to individually as a "governmental unit") for fostering the
45 relief of waters in, bordering or entering the territorial area of the
46 governmental unit from pollution or threatened pollution or
47 assisting the municipal authority in carrying out and effectuating its
48 purposes, may enter into a contract or contracts providing for or

1 relating to the collection, storage, treatment and disposal of sewage,
2 stormwater or solid waste originating in the district or received by
3 the municipal authority, or originating in the territorial area of or
4 collected by the governmental unit, by means of the sewerage ,
5 stormwater management or solid waste system or any sewerage ,
6 stormwater management or solid waste facilities of the
7 governmental unit or both, and the cost and expense of such
8 collection, storage, treatment and disposal , or may enter into a
9 contract with a private firm for the operation or improvement of a
10 stormwater management system for the collection, treatment or
11 disposal of stormwater, and the cost and expense of such collection,
12 treatment and disposal. Any municipal authority for the carrying out
13 and effectuation of its purposes, and (a) any of the local units (b)
14 any other municipality whether within or without the district and (c)
15 any other municipal authority, any sewerage authority or any other
16 public body of the State empowered to sell and supply water (all
17 such local units, municipalities, other municipal authorities,
18 sewerage authorities and other bodies being hereinafter referred to
19 individually as a "governmental unit") for fostering the provision
20 and distribution of an adequate supply of water within the territorial
21 area of the governmental unit or assisting the municipal authority in
22 carrying out and effectuating its purposes may enter into a contract
23 or contracts providing for or relating to the sale or supplying of
24 water to such municipal authority or to the governmental unit or to
25 persons or properties within the district or the governmental unit,
26 and the cost and expense of such sale or supplying of water. Any
27 such contract may provide for the payment to the municipal
28 authority by the governmental unit annually or otherwise of such
29 sum or sums of money, computed at fixed amounts or by a formula
30 based on any factors or other matters described in section 21 **【**or
31 **】** of P.L.1957, c.183 (C.40:14B-21), section 22
32 of P.L.1957, c.183 (C.40:14B-22), or section 13 of
33 P.L. , c. (C.) (pending before the Legislature as this bill) or
34 in any other manner, as said contract or contracts may provide, and
35 may provide that the sum or sums so payable to the municipal
36 authority shall be in lieu of all or any part of the service charges
37 which would otherwise be charged and collected by the municipal
38 authority with regard to persons or real property within the
39 territorial area of the governmental unit. Such contract or contracts
40 may also contain provisions as to the financing and payment of
41 expenses to be incurred by the municipal authority and determined
42 by it to be necessary for its purposes prior to the placing in
43 operation of a sewerage, stormwater management, solid waste or
44 water supply and distribution system and may provide for the
45 payment by the governmental unit to the municipal authority for
46 application to such expenses or indebtedness therefor such sum or
47 sums of money, computed as said contract or contracts may provide
48 and as the governing body (hereinafter described) of the

1 governmental unit shall, by virtue of its authorization of and entry
2 into said contract or contracts, determine to be necessary for the
3 purposes of the municipal authority. Every such contract shall be
4 authorized and entered into under and pursuant to a resolution
5 adopted by the authority in the case of municipal or other authority,
6 an ordinance of the governing body in the case of a municipality, a
7 resolution or ordinance of the governing body in the case of a
8 county, and, in the case of any other public body, a resolution of the
9 commission, council, board or body by whatever name it may be
10 known (in this section sometimes referred to as "governing body")
11 having charge of the finances of such public body, but the terms or
12 text of said contract need not be set forth in full or stated in any
13 such resolution or ordinance if the form of said contract is on file in
14 the office of the clerk or other recording officer of the governmental
15 unit or its governing body and the place in fact of such filing is
16 described in the resolution or ordinance. Any such contract may be
17 made with or without consideration and for a specified or an
18 unlimited time and on any terms and conditions which may be
19 approved by or on behalf of the governmental unit and which may
20 be agreed to by the municipal authority in conformity with its
21 contracts with the holders of any bonds, and shall be valid whether
22 or not an appropriation with respect thereto is made by the
23 governmental unit prior to authorization or execution thereof.
24 Every such governmental unit is hereby authorized and directed to
25 do and perform any and all acts or things necessary, convenient or
26 desirable to carry out and perform every such contract and to
27 provide for the payment or discharge of any obligation thereunder
28 in the same manner as other obligations of such governmental unit.
29 Subject to any such contracts with the holders of bonds, the
30 municipal authority is hereby authorized to do and perform any and
31 all acts or things necessary, convenient or desirable to carry out and
32 perform every such contract and, in accordance with any such
33 contract, to waive, modify, suspend or reduce the service charges
34 which would otherwise be charged and collected by the municipal
35 authority with regard to persons or real property within the
36 territorial area of the governmental unit, but nothing in this section
37 or any such contract shall prevent the municipal authority from
38 charging and collecting, as if such contract had not been made,
39 service charges with regard to such persons and real property
40 sufficient to meet any default or deficiency in any payments agreed
41 in such contract to be made by such governmental unit.

42 (cf: P.L.1979, c.86, s.14)

43

44 18. Section 54 of P.L.1957, c.183 (C.40:14B-54) is amended to
45 read as follows:

46 54. Each county, municipality and other public body shall
47 promptly pay to any municipal authority all service charges which
48 the municipal authority may charge to it, as owner or occupant of

1 any real property, in accordance with section 21 **【**or section 22 of
2 this act**】** of P.L.1957, c.183 (C.40:14B-21), section 22 of P.L.1957,
3 c.183 (C.40:14B-22), or section 13 of P.L. , c. (C.)
4 (pending before the Legislature as this bill), and shall provide for
5 the payment thereof in the same manner as other obligations of such
6 county, municipality or public body.
7 (cf: P.L.1957, c.183, s.54)

8
9 19. Section 57 of P.L.1957, c.183 (C.40:14B-57) is amended to
10 read as follows:

11 Each county and municipality owning or operating any system of
12 water distribution serving **【3】** three or more parcels of real property
13 in the district shall, and every other person owning or operating any
14 such system may and is hereby authorized to enter into and perform
15 a contract with the municipal authority that it will, upon request by
16 the municipal authority specifying a parcel of real property in the
17 district with regard to which a service charge under section 22 of
18 **【this act】** P.L.1957, c.183 (C.40:14B-22) or section 13 of
19 P.L. , c. (C.) (pending before the Legislature as this bill) is
20 unpaid, cause the supply of water from its system to such parcel of
21 real property to be stopped or restricted, as the municipal authority
22 may request, until such service charge and any subsequent service
23 charge with regard to such parcel and the interest accrued thereon
24 shall be fully paid or until the municipal authority directs otherwise.
25 No such county, municipality or other person shall be liable for any
26 loss, damage or other claim based on or arising out of the stopping
27 or restricting of such supply, and the municipal authority shall pay
28 the reasonable cost of so stopping or restricting such supply and of
29 restoring the same and may agree to indemnify such county,
30 municipality or other person from all loss or damage by reason of
31 such stopping or restriction, including loss of profits.
32 (cf: P.L.1957, c.183, s.57)

33
34 20. Section 60 of P.L.1957, c.183 (C.40:14B-60) is amended to
35 read as follows:

36 60. (a) No county, municipality or person shall discharge or
37 suffer to be discharged directly or indirectly into any waters in or
38 bordering a district any sewage which may or will cause or
39 contribute to the pollution of such waters; provided, that this
40 prohibition shall be applicable only to such part or parts of such
41 waters as are in an area of the district bounded and described in a
42 notice, inserted at least once in a newspaper published or circulating
43 in the district, to the effect that the municipal authority has
44 provided facilities reasonably sufficient in its opinion for the
45 treatment and disposal of sewage which by discharge into such
46 waters might cause or contribute to pollution of such waters, and
47 that pollution of such waters is forbidden by law. Such a notice

1 shall constitute prima facie evidence of the existence of facilities
2 sufficient for the treatment and disposal of all such sewage.

3 (b) No county, municipality or person shall discharge or suffer
4 to be discharged directly or indirectly into the sewage system , the
5 stormwater management system, or the solid waste system of any
6 municipal authority any matter or thing which is or may be
7 injurious or deleterious to such sewerage system , stormwater
8 management system, or solid waste system or to its efficient
9 operation.

10 (c) No county, municipality or person shall discharge or suffer
11 to be discharged directly or indirectly into the water system of any
12 municipal authority or on any lands or into any waters tributary to
13 such water system any matter or thing which is or may be injurious
14 or deleterious to such water system or to its efficient operation or
15 may or will cause or contribute to a danger to the health of the
16 public in the district.

17 (d) Any county, municipality or person may be restrained,
18 enjoined or otherwise prevented from violating or continuing the
19 violation of any provision of this section in a proceeding in lieu of
20 prerogative writ, or other appropriate proceeding, or in an action for
21 injunctive or other relief instituted by a municipal authority or by
22 any county prosecutor.

23 (e) No violation of any provision of this section shall be deemed
24 to have occurred by reason of the discharge of sewage from any
25 boat or vessel while afloat or on a marine railway in drydock.

26 (cf: P.L.1977, c.384, s.14)

27

28 21. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to
29 read as follows:

30 2. As used in **[this act]** P.L.1960, c.183 (C.40:37A-44 et seq.),
31 unless a different meaning clearly appears from the context:

32 (a) "Authority" shall mean a public body created pursuant to
33 **[this act]** P.L.1960, c.183 (C.40:37A-44 et seq.);

34 (b) "Bond resolution" shall have the meaning ascribed thereto in
35 section 17 of P.L.1960, c.183 (C.40:37A-60);

36 (c) "Bonds" shall mean bonds, notes or other obligations issued
37 pursuant to this act;

38 (d) "Construct" and "construction" shall connote and include
39 acts of clearance, demolition, construction, development or
40 redevelopment, reconstruction, replacement, extension,
41 improvement and betterment;

42 (e) "Cost" shall mean, in addition to the usual connotations
43 thereof, the cost of planning, acquisition or construction of all or
44 any part of any public facility or facilities of an authority and of all
45 or any property, rights, easements, privileges, agreements and
46 franchises deemed by the authority to be necessary or useful and
47 convenient therefor or in connection therewith and the cost of
48 retiring the present value of the unfunded accrued liability due and

1 owing by the authority, as calculated by the system actuary for a
2 date certain upon the request of the authority, for early retirement
3 incentive benefits granted by the authority pursuant to P.L.1991,
4 c.230 and P.L.1993, c.181, including interest or discount on bonds,
5 cost of issuance of bonds, architectural, engineering and inspection
6 costs and legal expenses, cost of financial, professional and other
7 estimates and advice, organization, administrative, operating and
8 other expenses of the authority prior to and during such acquisition
9 or construction, and all such other expenses as may be necessary or
10 incident to the financing, acquisition, construction and completion
11 of such public facility or facilities or part thereof and the placing of
12 the same fully in operation or the disposition of the same, and also
13 such provision or reserves for working capital, operating,
14 maintenance or replacement expenses or for payment or security of
15 principal of or interest on bonds during or after such acquisition or
16 construction as the authority may determine, and also
17 reimbursements to the authority or any governmental unit or person
18 of any moneys theretofore expended for the purposes of the
19 authority;

20 (f) The term "county" shall mean any county of any class of the
21 State and shall include, without limitation, the terms "the county"
22 and "beneficiary county" defined in **【this act】** P.L.1960, c.183
23 (C.40:37A-44 et seq.), and the term "the county" shall mean the
24 county which created an authority pursuant to **【this act】** P.L.1960,
25 c.183 (C.40:37A-44 et seq.);

26 (g) "Development project" shall mean any lands, structures, or
27 property or facilities acquired or constructed or to be acquired or
28 constructed by an authority for the purposes of the authority
29 described in subsection (e) of section 11 of P.L.1960, c.183
30 (C.40:37A-54);

31 (h) "Facility charges" shall have the meaning ascribed to said
32 term in section 14 of P.L.1960, c.183 (C.40:37A-57);

33 (i) "Facility revenues" shall have the meaning ascribed to said
34 term in subsection (e) of section 20 of P.L.1960, c.183 (C.40:37A-
35 63);

36 (j) "Governing body" shall mean, in the case of a county, the
37 board of chosen freeholders, or in the case of a county operating
38 under article 3 or 5 of the "Optional County Charter Law,"
39 P.L.1972, c.154 (C.40:41A-1 et seq.) as defined thereunder, and, in
40 the case of a municipality, the commission, council, board or body,
41 by whatever name it may be known, having charge of the finances
42 of the municipality;

43 (k) "Governmental unit" shall mean the United States of
44 America or the State or any county or municipality or any
45 subdivision, department, agency, or instrumentality heretofore or
46 hereafter created, designated or established by or for the United
47 States of America or the State or any county or municipality;

1 (l) "Local bond law" shall mean chapter 2 of Title 40A,
2 Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as
3 amended and supplemented;

4 (m) "Municipality" shall mean any city, borough, village, town,
5 or township of the State but not a county or a school district;

6 (n) "Person" shall mean any person, partnership, association,
7 corporation or entity other than a nation, state, county or
8 municipality or any subdivision, department, agency or
9 instrumentality thereof;

10 (o) "Project" shall have the meaning ascribed to said term in
11 section 17 of P.L.1960, c.183 (C.40:37A-60);

12 (p) "Public facility" shall mean any lands, structures, franchises,
13 equipment, or other property or facilities acquired, constructed,
14 owned, financed, or leased by the authority or any other
15 governmental unit or person to accomplish any of the purposes of
16 an authority authorized by section 11 of P.L.1960, c.183
17 (C.40:37A-54);

18 (q) "Real property" shall mean lands within or without the State,
19 above or below water, and improvements thereof or thereon, or any
20 riparian or other rights or interests therein;

21 (r) "Garbage and solid waste disposal system" shall mean the
22 plants, structures and other real and personal property acquired,
23 constructed or operated or to be acquired, constructed or operated
24 by a county improvement authority, including incinerators, sanitary
25 landfill facilities or other plants for the treatment and disposal of
26 garbage, solid waste and refuse matter and all other real and
27 personal property and rights therein and appurtenances necessary or
28 useful and convenient for the collection and treatment or disposal in
29 a sanitary manner of garbage, solid waste and refuse matter (but not
30 including sewage);

31 (s) "Garbage, solid waste or refuse matter" shall mean garbage,
32 refuse and other discarded materials resulting from industrial,
33 commercial and agricultural operations, and from domestic and
34 community activities, and shall include all other waste materials
35 including sludge, chemical waste, hazardous wastes and liquids,
36 except for liquids which are treated in public sewage treatment
37 plants and except for solid animal and vegetable wastes collected by
38 swine producers licensed by the **State** Department of Agriculture
39 to collect, prepare and feed such wastes to swine on their own
40 farms;

41 (t) "Blighted, deteriorated or deteriorating area" may include an
42 area determined heretofore by the municipality to be blighted in
43 accordance with the provisions of P.L.1949, c.187, repealed by
44 P.L.1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which
45 are determined by the municipality, pursuant to the same procedures
46 as provided in said law, to be blighted, deteriorated or deteriorating
47 because of structures or improvements which are dilapidated or
48 characterized by disrepair, lack of ventilation or light or sanitary

1 facilities, faulty arrangement, location, or design, or other
2 unhealthful or unsafe conditions;

3 (u) "Redevelopment" may include planning, replanning,
4 conservation, rehabilitation, clearance, development and
5 redevelopment; and the construction and rehabilitation and
6 provision for construction and rehabilitation of residential,
7 commercial, industrial, public or other structures and the grant or
8 dedication or rededication of spaces as may be appropriate or
9 necessary in the interest of the general welfare for streets, parks,
10 playgrounds, or other public purposes including recreational and
11 other facilities incidental or appurtenant thereto, in accordance with
12 a redevelopment plan approved by the governing body of a
13 municipality;

14 (v) "Redevelopment plan" shall mean a plan as it exists from
15 time to time for the redevelopment of all or any part of a
16 redevelopment area, which plan shall be sufficiently complete to
17 indicate such land acquisition, demolition and removal of
18 structures, redevelopment, improvements, conservation or
19 rehabilitation as may be proposed to be carried out in the area of the
20 project, zoning and planning changes, if any, land uses, maximum
21 densities, building requirements, the plan's relationship to definite
22 local objectives respecting appropriate land uses, improved traffic,
23 public transportation, public utilities, recreational and community
24 facilities, and other public improvements and provision for
25 relocation of any residents and occupants to be displaced in a
26 manner which has been or is likely to be approved by the
27 Department of Community Affairs pursuant to the "Relocation
28 Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and
29 the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.)
30 and rules and regulations pursuant thereto;

31 (w) "Redevelopment project" shall mean any undertakings and
32 activities for the elimination, and for the prevention of the
33 development or spread, of blighted, deteriorated, or deteriorating
34 areas and may involve any work or undertaking pursuant to a
35 redevelopment plan; such undertaking may include: (1) acquisition
36 of real property and demolition, removal or rehabilitation of
37 buildings and improvements thereon; (2) carrying out plans for a
38 program of voluntary repair and rehabilitation of buildings or other
39 improvements; and (3) installation, construction or reconstruction
40 of streets, utilities, parks, playgrounds or other improvements
41 necessary for carrying out the objectives of the redevelopment
42 project;

43 (x) "Redeveloper" shall mean any person or governmental unit
44 that shall enter into or propose to enter into a contract with an
45 authority for the redevelopment of an area or any part thereof under
46 the provisions of **【this act】** P.L.1960, c.183 (C.40:37A-44 et seq.);

47 (y) "Redevelopment area" shall mean an area of a municipality
48 which the governing body thereof finds is a blighted area or an area

1 in need of rehabilitation whose redevelopment is necessary to
2 effectuate the public purposes declared in **【this act】** P.L.1960,
3 c.183 (C.40:37A-44 et seq.). A redevelopment area may include
4 lands, buildings, or improvements which of themselves are not
5 detrimental to the public health, safety or welfare, but whose
6 inclusion is found necessary, with or without change in their
7 condition, for the effective redevelopment of the area of which they
8 are a part;

9 (z) "Sludge" shall mean any solid, semisolid, or liquid waste
10 generated from a municipal, industrial or other sewage treatment
11 plant, water supply treatment plant, or air pollution control facility,
12 or any other such waste having similar characteristics and effects,
13 but shall not include effluent **【; and】**

14 (aa) "Beneficiary county" shall mean any county that has not
15 created an authority pursuant to **【this act】** P.L.1960, c.183
16 (C.40:37A-44 et seq.);

17 (bb) "Stormwater" shall mean water resulting from precipitation
18 that: (1) runs off of the land's surface; (2) is transmitted to the
19 subsurface; (3) is captured by separate storm sewers or other
20 sewerage or drainage facilities; or (4) is conveyed by snow removal
21 equipment; and

22 (cc) "Stormwater management system" shall mean any
23 equipment, plant, structures, machinery, apparatus, management
24 practices, design practices, planning activities, or land, or any
25 combination thereof, acquired, used, constructed, implemented, or
26 operated to convey stormwater, control or reduce stormwater runoff
27 and associated pollutants or flooding, induce or control the
28 infiltration of groundwater recharge of stormwater, or eliminate
29 illicit or illegal nonstormwater discharges into stormwater
30 conveyances.

31 (cf: P.L.2002, c.42, s.6)

32

33 22. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
34 read as follows:

35 11. The purposes of every authority shall be (a) provision within
36 the county or any beneficiary county of public facilities for use by
37 the State, the county or any beneficiary county, or any municipality
38 in any such county, or any two or more or any subdivisions,
39 departments, agencies or instrumentalities of any of the foregoing
40 for any of their respective governmental purposes, (b) provision
41 within the county or any beneficiary county of public facilities for
42 use as convention halls, or the rehabilitation, improvement or
43 enlargement of any convention hall, including appropriate and
44 desirable appurtenances located within the convention hall or near,
45 adjacent to or over it within boundaries determined at the discretion
46 of the authority, including but not limited to office facilities,
47 commercial facilities, community service facilities, parking
48 facilities, hotel facilities and other facilities for the accommodation

1 and entertainment of tourists and visitors, (c) provision within the
2 county or any beneficiary county of structures, franchises,
3 equipment and facilities for operation of public transportation or for
4 terminal purposes, including development and improvement of port
5 terminal structures, facilities and equipment for public use in
6 counties in, along or through which a navigable river flows, (d)
7 provision within the county or any beneficiary county of structures
8 or other facilities used or operated by the authority or any
9 governmental unit in connection with, or relative to development
10 and improvement of, aviation for military or civilian purposes,
11 including research in connection therewith, and including structures
12 or other facilities for the accommodation of passengers, (e)
13 provision within the county or any beneficiary county of a public
14 facility for a combination of governmental and nongovernmental
15 uses; provided that not more than 50% of the usable space in any
16 such facility shall be made available for nongovernmental use under
17 a lease or other agreement by or with the authority, (f) acquisition
18 of any real property within the county or any beneficiary county,
19 with or without the improvements thereof or thereon or personal
20 property appurtenant or incidental thereto, from the United States of
21 America or any department, agency or instrumentality heretofore or
22 hereafter created, designated or established by or for it, and the
23 clearance, development or redevelopment, improvement, use or
24 disposition of the acquired lands and premises in accordance with
25 the provisions and for the purposes stated in **【this act】** P.L.1960,
26 c.183 (C.40:37A-44 et seq.), including the construction,
27 reconstruction, demolition, rehabilitation, conversion, repair or
28 alteration of improvements on or to said lands and premises, and
29 structures and facilities incidental to the foregoing as may be
30 necessary, convenient or desirable, (g) acquisition, construction,
31 maintenance and operation of garbage and solid waste disposal
32 systems for the purpose of collecting and disposing of garbage,
33 solid waste or refuse matter, whether owned or operated by any
34 person, the authority or any other governmental unit, within or
35 without the county or any beneficiary county, (h) the improvement,
36 furtherance and promotion of the tourist industries and recreational
37 attractiveness of the county or any beneficiary county through the
38 planning, acquisition, construction, improvement, maintenance and
39 operation of facilities for the recreation and entertainment of the
40 public, which facilities may include, without being limited to, a
41 center for the performing and visual arts, (i) provision of loans and
42 other financial assistance and technical assistance for the
43 construction, reconstruction, demolition, rehabilitation, conversion,
44 repair or alteration of buildings or facilities designed to provide
45 decent, safe and sanitary dwelling units for persons of low and
46 moderate income in need of housing, including the acquisition of
47 land, equipment or other real or personal properties which the
48 authority determines to be necessary, convenient or desirable

1 appurtenances, all in accordance with the provisions of **[this act]**
2 P.L.1960, c.183 (C.40:37A-44 et seq.), as amended and
3 supplemented, (j) planning, initiating and carrying out
4 redevelopment projects for the elimination, and for the prevention
5 of the development or spread of blighted, deteriorated or
6 deteriorating areas and the disposition, for uses in accordance with
7 the objectives of the redevelopment project, of any property or part
8 thereof acquired in the area of such project, (k) acquisition,
9 construction, operation, and maintenance of stormwater
10 management systems, (l) any combination or combinations of the
11 foregoing or following, and **[(l)] (m)** subject to the prior approval
12 of the Local Finance Board, the planning, design, acquisition,
13 construction, improvement, renovation, installation, maintenance
14 and operation of facilities or any other type of real or personal
15 property within the county for a corporation or other person
16 organized for any one or more of the purposes described in
17 subsection a. of N.J.S.15A:2-1 except those facilities or any other
18 type of real or personal property which can be financed pursuant to
19 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A
20 county improvement authority shall also have as its purpose the
21 pooling of loans for any local governmental units within the county
22 or any beneficiary county that are refunding bonds in order to
23 achieve more favorable interest rates and terms for those local
24 governmental units.
25 (cf: P.L.2002, c.42, s.8)

26
27 23. Section 14 of P.L.1960, c.183 (C.40:37A-57) is amended to
28 read as follows:

29 14. Every authority is hereby authorized to charge and collect
30 tolls, rents, rates, fares, fees or other charges (**[in this act]**
31 sometimes referred to as "facility charges") in connection with, or
32 for the use or services of, or otherwise relating to, any public
33 facility or other property owned, leased or controlled by the
34 authority. If the public facility is a system of solid waste disposal,
35 including, but not limited to, a resource recovery facility, recycling
36 plant or transfer station owned, leased or controlled by the
37 authority, the authority may charge and collect in connection with
38 that system from any governmental unit included within the
39 jurisdiction of the authority or which contracts for service with that
40 authority or from any owner or occupant of any real property
41 situated in a constituent municipality or in a municipality which
42 contracts for service with that authority. **[Such]** If the public
43 facility or other property is part of a stormwater management
44 system, the authority may charge and collect fees in connection
45 with that system from any owner or occupant, or both, of any real
46 property situated in a constituent municipality or in a municipality
47 which contracts for service with that authority, including property
48 owned by any governmental unit, calculated in a manner consistent

1 with the guidance provided in the stormwater utility guidance
2 manual created by the Department of Environmental Protection
3 pursuant to section 24 of P.L. , c. (C.) (pending before the
4 Legislature as this bill). The facility charges may be charged to and
5 collected from any governmental unit or person and **such** the
6 governmental unit or person shall be liable for and shall pay **such**
7 the facility charges to the authority at the time when and place
8 where **such** the facility charges are due and payable.

9 (cf: P.L.1988, c.140, s.1)

10
11 24. (New section) a. The Department of Environmental
12 Protection shall create a stormwater utility guidance manual. The
13 stormwater utility guidance manual shall provide guidance to a
14 municipality, county, or authority seeking to establish, provide, and
15 maintain a stormwater management system pursuant to any relevant
16 authorizing law regarding rate structure and stormwater
17 management system implementation. The rate structure guidance
18 provided in the stormwater utility guidance manual shall provide
19 the means and methods of computing rates for stormwater utility
20 charges and shall be directly related to the specific costs of the
21 stormwater management system. Adoption of the stormwater
22 utility guidance manual, or any revisions thereto, shall not be
23 subject to the notice and publication requirements of the
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
25 seq.).

26 b. Five percent of the annual fees collected by stormwater
27 utilities as stormwater utility charges shall be transferred to the
28 department to fund program planning, implementation, and
29 coordination activities related to stormwater utilities and
30 stormwater management systems.

31 c. The Department of Environmental Protection shall adopt,
32 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
33 (C.52:14B-1 et seq.), any rules and regulations necessary to
34 implement P.L. , c. (C.) (pending before the Legislature as
35 this bill).

36
37 25. (New section) a. The governing body of any municipality
38 may by ordinance establish, provide, and maintain a stormwater
39 utility for the purpose of creating a stormwater management system
40 to manage the stormwater runoff of the municipality.

41 b. Every municipality that creates and operates a municipal
42 stormwater utility is hereby authorized to charge and collect rents,
43 rates, fees, or other charges for direct or indirect use or services of
44 the stormwater management system. The stormwater service
45 charges may be charged to and collected from the owner or
46 occupant, or both, of any real property. The owner of any real
47 property shall be liable for and shall pay these charges to the
48 municipal stormwater utility at the time when and place where such

1 stormwater service charges are due and payable. The rents, rates,
2 fees, and charges shall be determined in a manner consistent with
3 the guidance provided in the stormwater utility guidance manual
4 created by the Department of Environmental Protection pursuant to
5 section 24 of P.L. , c. (C.) (pending before the Legislature
6 as this bill). Any rent, rate, fee, or charge assessed pursuant to this
7 subsection shall be calculated in a manner consistent with the
8 guidelines established in the stormwater utility guidance manual
9 created pursuant to section 24 of P.L. , c. (C.) (pending
10 before the Legislature as this bill).

11 c. Funds received pursuant to the provisions of this section
12 shall be deposited with the public funds of the municipality and
13 shall be budgeted, expended, and accounted for in accordance with
14 the provisions of the Local Budget Law (N.J.S.40A:4-1 et seq.).

15 d. The governing body of a municipality exercising the powers
16 granted by this section is authorized to provide by resolution or
17 ordinance, as the case may be, at one time, or from time to time, for
18 the issuance of general obligation bonds of the municipality for the
19 purpose of paying all or any part of the cost of a stormwater utility
20 pursuant to this section. The bonds of each issue shall be issued
21 pursuant to the provisions of the Local Bond Law (N.J.S.40A:2-1 et
22 seq.).

23 e. As used in this section:

24 "Stormwater" means water resulting from precipitation that: (1)
25 runs off of the land's surface; (2) is transmitted to the subsurface;
26 (3) is captured by separate storm sewers or other sewerage or
27 drainage facilities; or (4) is conveyed by snow removal equipment;
28 and

29 "Stormwater management system" means any equipment, plant,
30 structures, machinery, apparatus, management practices, design
31 practices, planning activities, or land, or any combination thereof,
32 acquired, used, constructed, implemented, or operated to convey
33 stormwater, control or reduce stormwater runoff and associated
34 pollutants or flooding, induce or control the infiltration of
35 groundwater recharge of stormwater, or eliminate illicit or illegal
36 nonstormwater discharges into stormwater conveyances.

37

38 26. (New section) a. Any municipality, county, authority,
39 utility, utilities authority, or other entity managing both a
40 stormwater management system and a sewerage system under
41 authority granted pursuant to the "sewerage authorities law,"
42 P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county
43 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), the
44 "county improvement authorities law," P.L.1960, c.183 (C.40:37A-
45 44 et seq.), the "Municipal and County Sewerage Act," P.L.1991,
46 c.53 (C.40A:26A-1 et seq.), the "Municipal and County Flood
47 Control Financing Act," P.L.1987, c.179 (C.40A:27-1 et seq.), or
48 P.L. , c. (C.) (pending before the Legislature as this bill),

1 shall maintain separate budgets, keep separate books and records,
2 and incur separate costs for each such system.

3 b. As used in this section:

4 “Stormwater” means water resulting from precipitation that: (1)
5 runs off of the land’s surface; (2) is transmitted to the subsurface;
6 (3) is captured by separate storm sewers or other sewerage or
7 drainage facilities; or (4) is conveyed by snow removal equipment.

8 “Stormwater management system” means any equipment, plant,
9 structures, machinery, apparatus, management practices, design
10 practices, planning activities, or land, or any combination thereof,
11 acquired, used, constructed, implemented, or operated to convey
12 stormwater, control or reduce stormwater runoff and associated
13 pollutants or flooding, induce or control the infiltration of
14 groundwater recharge of stormwater, or eliminate illicit or illegal
15 nonstormwater discharges into stormwater conveyances.

16

17 27. (New section) a. Whenever a stormwater management
18 system is constructed by any person in accordance with standards
19 established therefor by a municipality, county, authority, utility,
20 utilities authority, or other entity authorized to manage a stormwater
21 management system pursuant to the "sewerage authorities law,"
22 P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county
23 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), the
24 "county improvement authorities law," P.L.1960, c.183 (C.40:37A-
25 44 et seq.), the "Municipal and County Sewerage Act," P.L.1991,
26 c.53 (C.40A:26A-1 et seq.), the "Municipal and County Flood
27 Control Financing Act," P.L.1987, c.179 (C.40A:27-1 et seq.), or
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 the municipality, county, authority, utility, utilities authority, or
30 other entity may accept the dedication of, and assume maintenance
31 responsibilities for, the stormwater management system in
32 accordance with the same procedures established and used for
33 sewer or water facilities.

34 b. As used in this section:

35 “Stormwater” means water resulting from precipitation that: (1)
36 runs off of the land’s surface; (2) is transmitted to the subsurface;
37 (3) is captured by separate storm sewers or other sewerage or
38 drainage facilities; or (4) is conveyed by snow removal equipment.

39 “Stormwater management system” means any equipment, plant,
40 structures, machinery, apparatus, management practices, design
41 practices, planning activities, or land, or any combination thereof,
42 acquired, used, constructed, implemented, or operated to convey
43 stormwater, control or reduce stormwater runoff and associated
44 pollutants or flooding, induce or control the infiltration of
45 groundwater recharge of stormwater, or eliminate illicit or illegal
46 nonstormwater discharges into stormwater conveyances.

1 28. N.J.S.40A:2-2 is amended to read as follows:

2 40A:2-2. The following words as used in this chapter shall
3 have the following meanings, unless the context clearly indicates a
4 different meaning:

5 **["bond]** "Bond ordinance" means an ordinance adopted as
6 herein provided by the governing body of a local unit authorizing
7 obligations;

8 **["equalized]** "Equalized valuation basis" of a local unit means
9 the average for the last **[3]** three preceding years, of the sum total
10 of

11 **[a.]** (1) the aggregate equalized valuation of real property
12 together with improvements, as certified in the Table of Equalized
13 Valuations by the Director of the Division of Taxation in the
14 Department of the Treasury, on October 1 of each year, pursuant to
15 chapter 86 of the laws of 1954, and

16 **[b.]** (2) the assessed valuation of Class II railroad property as
17 set forth in the table of equalized valuations referred to in **["a"]**
18 (1) above.

19 **["governing]** "Governing body" means the board of chosen
20 freeholders of a county, or the commission, council, board or body
21 having control of the finances of a municipality;

22 **["local]** "local improvement" means an improvement or
23 property, part or all of the cost of which has been, or is to be
24 specially assessed on property;

25 **["obligations"]** "Obligations" means bonds or notes of a local
26 unit;

27 **["refunding]** "Refunding bond ordinance" means an ordinance
28 adopted by the governing body of the local unit authorizing
29 refunding bonds;

30 "Stormwater" means water resulting from precipitation that: (1)
31 runs off of the land's surface; (2) is transmitted to the subsurface;
32 (3) is captured by separate storm sewers or other sewerage or
33 drainage facilities; or (4) is conveyed by snow removal equipment;
34 and

35 "Stormwater management system" means any equipment, plant,
36 structures, machinery, apparatus, management practices, design
37 practices, planning activities, or land, or any combination thereof,
38 acquired, used, constructed, implemented, or operated to convey
39 stormwater, control or reduce stormwater runoff and associated
40 pollutants or flooding, induce or control the infiltration of
41 groundwater recharge of stormwater, or eliminate illicit or illegal
42 nonstormwater discharges into stormwater conveyances.

43 (cf: P.L.1964, c.72, s.1)

44

45 29. N.J.S.40A:2-15 is amended to read as follows:

46 40A:2-15. Any bond ordinance to finance any cost or expense of
47 a municipal public utility, or any ordinance amendatory thereof or

1 supplemental thereto adopted prior to the issuance of obligations,
2 may contain the following covenants with the holders of such
3 obligations which shall be observed and performed by the local
4 unit, notwithstanding the provisions of this or any other law:

5 a. As to the use and disposition of revenues derived or to be
6 derived from the operation of the whole or any part of any
7 municipal public utility, including any improvements thereto or
8 extensions thereof thereafter constructed or acquired, whether said
9 obligations are authorized to finance construction, improvement,
10 enlargement, reconstruction, extension or acquisition of such or
11 any other municipal public utility;

12 b. Pledging to the punctual payment of the principal of and
13 interest on such obligations, all or any part of such revenues;

14 c. As to the setting aside out of such revenues of **[1]** one or
15 more reserve funds, and the regulation and disposition thereof;

16 d. As to the fixing and collection of such rates, rentals and
17 other charges for connection with or the use of any such municipal
18 public utility, including any improvements thereto or extensions
19 thereof thereafter constructed or acquired as will annually produce
20 revenues sufficient to provide for all or any lesser part described in
21 said ordinance of the following:

22 **[1.]** (1) expenses of operation, maintenance and repair of such
23 utility and any other such utilities,

24 **[2.]** (2) payment of the principal of and interest on said
25 obligations,

26 **[3.]** (3) such reserve funds as may have been provided for in
27 said ordinance,

28 **[4.]** (4) payment of any mortgage or mortgages subject to which
29 such utility or any other such utilities, or any part thereof may have
30 been acquired, and

31 **[5.]** (5) payment of any obligations having a lien on the
32 revenues of such utility or any other such utilities, or any part
33 thereof prior to or on a parity with the lien of such obligations;

34 e. As to the procedure, if any, by which the terms of any
35 covenant with the holders of such obligations may be amended or
36 abrogated, the amount of obligations the holders of which must
37 consent thereto and the manner in which such consent may be
38 given.

39 Such obligations may contain such recitals of or reference to any
40 such covenants as any resolution determining their form may
41 provide.

42 f. Notwithstanding any provisions of this section to the
43 contrary, any rates, rentals, or other charges that are levied to
44 finance a stormwater management system shall be determined in a
45 manner consistent with the stormwater utility guidance manual
46 created by the Department of Environmental Protection pursuant to

1 section 24 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3 (cf: P.L.1960, c.169, s.1)

4

5 30. N.J.S.40A:26A-2 is amended to read as follows:

6 40A:26A-2. The Legislature finds and declares it to be in the
7 public interest and to be the policy of this State to foster and
8 promote the public health , safety, and welfare by providing for the
9 collection and treatment of sewerage and the management of
10 stormwater through adequate sewerage facilities and stormwater
11 management systems. It is the purpose of this act to implement this
12 policy by authorizing municipalities and counties either separately
13 or in combination with other municipalities and counties to finance,
14 acquire, construct, maintain, operate or improve works for the
15 management of stormwater and the collection, treatment, transport
16 and disposal of sewage and to provide for the financing of these
17 facilities.

18 It is further declared that the acquisition, construction, operation,
19 and maintenance of stormwater management systems are essential
20 to the goals of protecting and improving the State's water quality,
21 and are necessary to prevent and abate nonpoint sources of
22 pollution, minimize stormwater runoff, control flooding, and
23 enhance groundwater recharge.

24 (cf: P.L.1991, c.53, s.1)

25

26 31. N.J.S.40A:26A-3 is amended to read as follows:

27 40A:26A-3. As used in **【this act】** N.J.S.40A:26A-1 et seq.:

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

30 "Cost" as applied to sewerage facilities or extensions or additions
31 thereto, means the cost of acquisition or the construction including
32 improvement, reconstruction, extension or enlargement, the cost of
33 all lands, property, rights and easements acquired. The cost of
34 demolition or removal of any buildings or structures thereon,
35 financing charges, interest on bonds issued to finance sewerage
36 facilities prior to and during construction, the cost of plans and
37 specifications, surveys or estimates of costs and revenues, the cost
38 of engineering, legal services, and any other expenses necessary or
39 incident to determining the feasibility of construction,
40 administrative and other expenses as may be necessary or incident
41 to the construction or acquisition of sewerage facilities and the
42 financing thereof.

43 "Local unit" means a county or municipality.

44 "Sewerage facilities" means the plants, structures or other real
45 and personal property acquired, constructed or operated, or to be
46 financed, acquired, constructed or operated, or any parts thereof,
47 used for the storage, collection, reduction, reclamation, disposal,
48 separation or other treatment of wastewater **【or】** , sewage sludge ,

1 or stormwater, or for the final disposal of residues resulting from
2 the treatment of wastewater or stormwater, including but not limited
3 to, pumping and ventilating stations, treatment plants and works,
4 connections, outfall servers, interceptors, trunk lines , drainage
5 systems, catch basins, detention ponds, and other appurtenances
6 necessary for their use or operation.

7 “Sewerage services” means any service rendered by or through a
8 sewerage facility including a stormwater management system.

9 “Stormwater” means water resulting from precipitation that: (1)
10 runs off of the land’s surface; (2) is transmitted to the subsurface;
11 (3) is captured by separate storm sewers or other sewerage or
12 drainage facilities; or (4) is conveyed by snow removal equipment;
13 and

14 “Stormwater management system” means any equipment, plant,
15 structures, machinery, apparatus, management practices, design
16 practices, planning activities, or land, or any combination thereof,
17 acquired, used, constructed, implemented, or operated to convey
18 stormwater, control or reduce stormwater runoff and associated
19 pollutants or flooding, induce or control the infiltration of
20 groundwater recharge of stormwater, or eliminate illicit or illegal
21 nonstormwater discharges into stormwater conveyances.

22 (cf: P.L.1991, c.53, s.1)

23

24 32. N.J.S.40A:26A-5 is amended to read as follows:

25 40A:26A-5. One or more local units adopting an ordinance or
26 resolution in accordance with N.J.S.40A:26A-4 are authorized and
27 empowered:

28 a. To acquire, construct, improve, extend, enlarge or
29 reconstruct and finance sewerage facilities, and to operate, manage
30 and control all or part of these facilities and all properties relating
31 thereto;

32 b. To issue bonds of the local unit or units to pay all or part of
33 the cost of the purchase, construction, improvement, extension,
34 enlargement or reconstruction of sewerage facilities;

35 c. To receive and accept from the federal or State government,
36 or any agency or instrumentality thereof, grants or loans for, or in
37 aid of, the planning, purchase, construction, improvement,
38 extension, enlargement or reconstruction, or financing of sewerage
39 facilities, and to receive and accept from any source, contributions
40 or money, property, labor or other things of value to be held, used
41 and applied only for the purposes for which the grants or loans and
42 contributions are made;

43 d. To acquire in the name of the local unit or units by gift,
44 purchase, or by the exercise of the right of eminent domain, lands
45 and rights and interests therein, including lands under water and
46 riparian rights, and personal property as may be deemed necessary
47 for acquisition, construction, improvement, extension, enlargement
48 or reconstruction, or for the efficient operation of any facilities

1 acquired or constructed under the provisions of N.J.S.40A:26A-1 et
2 seq. and to hold and dispose of all real and personal property so
3 acquired;

4 e. To make and enter into all contracts and agreements
5 necessary or incidental to the performance of the local unit's or
6 units' duties and the execution of powers authorized under
7 N.J.S.40A:26A-1 et seq., and to employ engineers, superintendents,
8 managers, attorneys, financial or other consultants or experts, and
9 other employees and agents as may be deemed necessary, and to fix
10 their compensation;

11 f. Subject to the provisions and restrictions set forth in the
12 ordinance or resolution authorizing or securing any bonds issued
13 under the provisions of N.J.S.40A:26A-1 et seq., to enter into
14 contracts with the federal or State **【Government】** government, or
15 any agency or instrumentality thereof, or with any other local unit,
16 private corporation, copartnership, association or individual
17 providing for, or relating to, sewerage services which contracts may
18 provide for the furnishing of sewerage facility services either by or
19 to the local unit or units, or the joint construction or operation of
20 sewerage facilities;

21 g. To fix and collect rates, fees, rents and other charges in
22 accordance with N.J.S.40A:26A-1 et seq.;

23 h. To prevent toxic pollutants from entering the sewerage
24 system , and to control nonstormwater discharges into stormwater
25 management systems;

26 i. To prevent from directly or indirectly entering the sewerage
27 system any matter or thing which is or may be injurious or
28 deleterious to the sewerage system or to its efficient operation;

29 j. Upon the request of a customer: (1) to offer the customer the
30 ability to receive or access, in electronic format, any periodic bill
31 for service sent by the local unit or units to its customers and any
32 additional information sent by the local unit or units to its
33 customers as required by law, provided that any notice of
34 disconnection, discontinuance or termination of sewerage service
35 shall be sent to a customer in written form at the customer's legal
36 mailing address in addition to being sent or being made available in
37 electronic format; and (2) to provide the customer the option of
38 paying any such periodic bill via electronic means; and

39 **【j.】** k. To exercise any other powers necessary or incidental
40 to the effectuation of the general purpose of N.J.S.40A:26A-1 et
41 seq.

42 (cf: P.L.2010, c.91, s.6)

43

44 33. N.J.S.40A:26A-10 is amended to read as follows:

45 40A:26A-10. After the commencement of operation of sewerage
46 facilities, the local unit or units may prescribe and, from time to
47 time, alter rates or rentals to be charged to users of sewerage
48 services. Rates or rentals being in the nature of use or service

1 charges or annual rental charges, shall be uniform and equitable for
2 the same types and classes of use and service of the facilities,
3 except as permitted by section 5 of P.L.1994, c.78 (C.40A:26A-
4 10.1). Rates or rentals and types and classes of use and service may
5 be based on any factors which the governing body or bodies of that
6 local unit or units shall deem proper and equitable within the region
7 served. Any rate or rental charge associated with a stormwater
8 management system shall be calculated in a manner consistent with
9 the guidance provided by the stormwater utility guidance manual
10 created by the Department of Environmental Protection pursuant to
11 section 24 of P.L. , c. (C.) (pending before the Legislature
12 as this bill).

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

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

22 b. Establish a surplus in an amount sufficient to provide for the
23 reasonable anticipation of any contingency that may affect the
24 operating of the sewerage facility, and, at the discretion of the local
25 unit or units, allow for the transfer of moneys from the budget for
26 the sewerage facilities to the local budget in accordance with
27 section 5 of P.L.1983, c.111 (C.40A:4-35.1).

28 (cf: P.L.1994, c.78, s.6.)
29

30 34. N.J.S.40A:27-3 is amended to read as follows:

31 40A:27-3. As used in **[this act]** N.J.S.40A:27-1 et seq.):

32 "Contracting local unit" means a local unit which enters into a
33 contract with another local unit for the construction, maintenance,
34 improvement, acquisition or financing of a flood control facility for
35 its own use;

36 "Contractor" means a local unit, which enters into a contract with
37 a contracting local unit to construct, maintain, improve, acquire or
38 finance flood control facilities for the contracting local unit;

39 "Cost" as applied to flood control facilities or extensions or
40 additions thereto, means the cost of construction, reconstruction or
41 maintenance, improvement, the cost of all labor, materials,
42 machinery and equipment, the costs of all lands, property, rights
43 and easements acquired, financing charges, interest on bonds issued
44 to finance a facility prior to, during and after acquisition or
45 construction, the cost of plans and specifications, surveys or
46 estimates of costs and of revenues, the cost of engineering and legal
47 services, and all other expenses necessary or incident to
48 determining the feasibility or practicability of the construction,

1 reconstruction, improvement, or maintenance of a facility,
2 administrative expenses and such other expenses as may be
3 necessary or incident to the construction, maintenance or
4 acquisition of a facility, and the financing herein authorized. Any
5 obligation or expense incurred by a local unit in connection with
6 any of the foregoing items of cost prior to the issuance of bonds or
7 notes as authorized herein may be reimbursed to the local unit out
8 of the proceeds of bonds issued under the provisions of this chapter;

9 "Department" means the Department of Environmental
10 Protection;

11 "Flood control facilities" means the dams, drainage ways,
12 structures and other real and personal property acquired,
13 constructed, operated, financed, maintained or improved or to be
14 acquired, constructed, operated, financed, maintained or improved
15 by a local unit for the purposes of flood control or stormwater
16 management, including storage reservoirs, dikes, diversions, dams,
17 spillways, levees, revetments, drains, ditches or channel
18 improvements, such as widening, deepening, straightening,
19 clearing, desnagging, sloping, building and filling in, and other
20 plants, structures, boats, conveyances and other real or personal
21 property and rights therein, and appurtenances necessary for the
22 control of flooding, the preservation of stream flow and the
23 management of surface water and **[storm water]** stormwater,
24 including any storm sewers, storm drains, drainage facilities, and
25 detention basins, and the dredging or desnagging of any drainage
26 ways;

27 "General obligation bonds" means general obligations of the
28 local unit which are payable from unlimited ad valorem taxes
29 additionally secured by a pledge of the revenues derived from the
30 assessment of such local improvement charges as may be assessed;

31 "Local unit" means a county or municipality;

32 "Parties to the contract" means a contractor and a contracting
33 local unit which have contracted for the construction, maintenance,
34 improvement or acquisition of flood control facilities;

35 "Stormwater" means water resulting from precipitation that: (1)
36 runs off of the land's surface; (2) is transmitted to the subsurface;
37 (3) is captured by separate storm sewers or other sewerage or
38 drainage facilities; or (4) is conveyed by snow removal equipment;
39 and

40 "Stormwater management system" means any equipment, plant,
41 structures, machinery, apparatus, management practices, design
42 practices, planning activities, or land, or any combination thereof,
43 acquired, used, constructed, implemented, or operated to convey
44 stormwater, control or reduce stormwater runoff and associated
45 pollutants or flooding, induce or control the infiltration of
46 groundwater recharge of stormwater, or eliminate illicit or illegal
47 nonstormwater discharges into stormwater conveyances.

48 (cf: P.L.1987, c.179, s.1)

1 35. N.J.S.40A:27-10 is amended to read as follows:

2 40A:27-10. If the governing body of a local unit determines that
3 public necessity and interest require the cost of construction of a
4 flood control facility to be financed by local improvement
5 assessments, it shall pass a resolution or ordinance, as the case may
6 be, of its intention to undertake and so finance the facility and shall
7 give notice of this intention by advertising in one or more
8 newspapers of general circulation in the county or municipality and
9 by notifying each concerned property owner by certified mail; and
10 this notice shall fix a time and place, not less than two weeks after
11 the date of the notice, for a public hearing on the proposed action.
12 At the public hearing the governing body of a local unit shall
13 present a preliminary assessment of the affected properties. If the
14 purpose of a flood control facility is to serve and operate as a
15 stormwater management system, that facility may instead be
16 financed through a fee to be determined in a manner consistent with
17 the stormwater utility guidance manual created by the Department
18 of Environmental Protection pursuant to section 24 of
19 P.L. , c. (C.) (pending before the Legislature as this bill).
20 (cf: P.L.1987, c.179, s.1)

21

22 36. This act shall take effect on the 180th day after the date of
23 enactment, but the Department of Environmental Protection may
24 take such anticipatory administrative action in advance thereof as
25 shall be necessary for the implementation of this act.

26

27

28

STATEMENT

29

30 This bill would permit municipalities, counties, and certain
31 authorities to establish and operate stormwater utilities.

32 New Jersey faces an extensive set of problems due to inadequate
33 stormwater infrastructure and management. When storms occur,
34 rainwater runs off of impervious surfaces like roads, roofs, and
35 parking lots into stormwater sewer systems and ditches or into
36 waterways. This stormwater runoff carries with it debris, bacteria,
37 and chemicals such as pesticides, fertilizers, and gasoline, which
38 pollutes water bodies and drinking water sources. Additionally,
39 when there is no open space or stormwater management
40 infrastructure to help absorb and capture water, runoff in large
41 volumes and force can result in major flooding and property
42 damage. New Jersey, in particular, is prone to pollution and
43 flooding problems, with over 10 percent of its land area covered in
44 impervious surfaces. These problems affect the health, safety,
45 economic well-being, and quality of life of the State's residents.

46 Unlike drinking water supply and wastewater systems, New
47 Jersey's stormwater infrastructure lacks a dedicated source of
48 funding, and receives few upgrades and little maintenance once

1 built. Often times, stormwater systems go unmonitored and
2 unattended until they break down. In some cases, the infrastructure
3 is inadequate to manage stormwater, especially as increased
4 development and large storm events generate more runoff. The
5 United States Environmental Protection Agency has ranked
6 stormwater management as New Jersey's most expensive water-
7 related funding need, requiring \$15.6 billion. While the New Jersey
8 Department of Environmental Protection (DEP) has adopted
9 regulations requiring municipalities to manage stormwater, many
10 municipalities do not have the resources to do so. There is currently
11 no explicit authority in State law for municipalities or counties to
12 create stormwater utilities.

13 This bill would authorize municipalities, counties, and certain
14 local authorities to create and operate stormwater utilities. The bill
15 would permit municipalities and counties to finance the creation,
16 operation, and maintenance of stormwater utilities through the
17 imposition of user fees and the issuance of bonds. Among other
18 statutory changes, the bill would amend the "sewerage authorities
19 law," the "municipal and county utilities authorities law," the
20 "county improvement authorities law," the "Municipal and County
21 Sewerage Act," and the "Municipal and County Flood Control
22 Financing Act" to permit municipalities, counties, and combinations
23 of municipalities and counties to manage stormwater through
24 utilities.

25 The bill would also require the DEP to create a stormwater utility
26 guidance manual to provide guidance to municipalities, counties,
27 and authorities seeking to establish stormwater utilities. The
28 guidance manual would provide local units with rate structure
29 guidance, including the means and method of computing rates for
30 stormwater utility charges. Such charges would be directly related
31 to the specific costs of the stormwater utility. Under the bill, the
32 DEP would receive five percent of the annual fees collected by
33 stormwater utilities as stormwater utility charges to fund program
34 planning, implementation, and coordination activities related to
35 stormwater utilities.

36 Finally, the bill would authorize municipalities, counties, and
37 authorities to contract with private firms for the operation or
38 improvement of stormwater utilities.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2694

STATE OF NEW JERSEY

DATED: OCTOBER 22, 2018

The Assembly Telecommunications and Utilities Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2694.

As substituted and reported, this bill permits counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Under the bill, a county or municipality may, by resolution or ordinance, as appropriate, establish a stormwater utility for the purposes of acquiring, constructing, improving, maintaining, and operating a stormwater management system. The county or municipality may establish a stormwater utility as a new department within the county or municipality, or as an operation of an existing department having responsibility and control over a stormwater management system.

Alternatively, one or more municipalities that have established a municipal sewerage authority or a municipal utilities authority may, by ordinance or parallel ordinances, request that the authority establish a stormwater utility. Upon receiving a request, the sewerage authority may establish a stormwater utility pursuant to a service agreement between the sewerage authority and the requesting municipalities. Likewise, a county that has established a county sewerage authority, county utilities authority, or county improvement authority may, by resolution, request that the authority establish a stormwater utility, and the authority may establish the stormwater utility pursuant to a service agreement. A stormwater utility that is established by an authority is to be considered a separate operation of the authority to be budgeted and accounted for separately.

Under the bill, a county, municipality, or authority (local unit) that establishes a stormwater utility is authorized to charge and collect reasonable fees and other charges to recover the stormwater utility's costs for stormwater management. These fees and other charges are to be collected from the owner or occupant of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. A fee or other charge is to be based on a fair and equitable approximation of the

proportionate contribution of stormwater runoff from the real property. In establishing a fee or other charge, a local unit would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. A local unit would be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Under the bill, land actively devoted to agriculture or horticulture would be exempt from any fee or other charge.

A local unit is permitted to use the fees or other charges collected for a variety of stormwater-related purposes outlined in the bill. A local unit that collects fees or other charges is required to remit to the State Treasurer annually an amount equal to five percent of all fees or other charges, or \$50,000, whichever amount is less. The State Treasurer is to deposit these moneys into the "Clean Stormwater and Flood Reduction Fund" (fund), established by the bill. Moneys deposited in the fund are to be specifically dedicated and used by the Department of Environmental Protection (DEP) to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management.

In the event that a person does not pay a fee or other charge when due, the bill provides a local unit with several enforcement mechanisms which are similar to the enforcement mechanisms that currently exist for water and sewer public utilities. Specifically: (1) interest is to accrue on the unpaid fees; (2) the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and (3) the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The bill requires a local unit that establishes a stormwater utility to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs and the DEP. The annual report is to include, but need not be limited to: (1) information on the stormwater utility's service area; its schedule of fees, other charges, and credits; (2) the number of properties subject to the stormwater utility's fees and other charges, and the number of properties, broken down by land-use type, granted credits or exemptions; (3) the total revenues collected from stormwater utility fees and other charges; (4) the percentage of revenues from fees and other charges spent on the purposes authorized in the bill; and (5) a list of stormwater management projects

implemented in the previous fiscal year. A local unit would be required to post the annual report on their Internet website for access by the public.

Under the bill, a local unit that establishes a stormwater utility is permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a local unit that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a local unit requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a local unit that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits a local unit to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. The bill permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill requires the DEP, in consultation with other government agencies and stakeholders, to develop and periodically update a stormwater utility guidance manual. The guidance manual is to include, but not be limited to: (1) technical assistance for local units seeking to establish a stormwater utility; (2) factors for local units to consider when establishing and revising stormwater utility fees and other charges; (3) information on how to develop an asset management program for stormwater management systems; and (4) information on how local units may conduct public education and outreach related to stormwater management.

The bill exempts costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 which concerns the budgets of certain authorities.

The bill requires a local unit to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system.

As substituted and reported, Assembly Bill No. 2694 is identical to Senate Bill No. 1073 SCS (1R), which was also reported by the committee on this date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2694**

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2694, with committee amendments.

As amended, this substitute bill permits counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Under the bill, a county or municipality may, by resolution or ordinance, as appropriate, establish a stormwater utility for the purposes of acquiring, constructing, improving, maintaining, and operating a stormwater management system. The county or municipality may establish a stormwater utility as a new department within the county or municipality, or as an operation of an existing department having responsibility and control over a stormwater management system.

Alternatively, one or more municipalities that have established a municipal sewerage authority or a municipal utilities authority may, by ordinance or parallel ordinances, request that the authority establish a stormwater utility. Upon receiving a request, the sewerage authority may establish a stormwater utility pursuant to a service agreement between the sewerage authority and the requesting municipalities. Likewise, a county that has established a county sewerage authority, county utilities authority, or county improvement authority may, by resolution, request that the authority establish a stormwater utility, and the authority may establish the stormwater utility pursuant to a service agreement. A stormwater utility that is established by an authority is to be considered a separate operation of the authority to be budgeted and accounted for separately.

Under the bill, a county, municipality, or authority (local unit) that establishes a stormwater utility is authorized to charge and collect reasonable fees and other charges to recover the stormwater utility's costs for stormwater management. These fees and other charges are to be collected from the owner or occupant of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. A fee or other charge

would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from the real property. In establishing a fee or other charge, a local unit would be required to provide a partial fee reduction in the form of a credit for any property that complies with the State or local stormwater management standards that were in place at the time the system was approved. A local unit would be required to provide an additional credit for any property which has installed and is operating and maintaining current stormwater best management practices that reduce, retain, or treat stormwater onsite. A local unit would be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Under the bill, land actively devoted to agriculture or horticulture would be exempt from any fee or other charge.

A local unit is permitted to use the fees or other charges collected for a variety of stormwater-related purposes outlined in the bill. A local unit that collects fees or other charges is required to remit to the State Treasurer annually an amount equal to five percent of all fees or other charges, or \$50,000, whichever amount is less. The State Treasurer is to deposit these moneys into the "Clean Stormwater and Flood Reduction Fund" (fund), established by the bill. Moneys deposited in the fund are to be specifically dedicated and used by the Department of Environmental Protection (DEP) to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management.

In the event that a person does not pay a fee or other charge when due, the bill provides a local unit with several enforcement mechanisms which are similar to the enforcement mechanisms that currently exist for water and sewer public utilities. Specifically: (1) interest is to accrue on the unpaid fees; (2) the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and (3) the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The bill requires a local unit that establishes a stormwater utility to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs and the DEP. The annual report is to include, but need not be limited to: (1) information on the stormwater utility's service area; its schedule of fees, other charges, and credits; (2) the number of properties subject to the stormwater utility's fees and other charges, and the number of properties, broken down by land-use type,

granted credits or exemptions; (3) the total revenues collected from stormwater utility fees and other charges; (4) the percentage of revenues from fees and other charges spent on the purposes authorized in the bill; and (5) a list of stormwater management projects implemented in the previous fiscal year. A local unit would be required to post the annual report on their Internet website for access by the public.

Under the bill, a local unit that establishes a stormwater utility is permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a local unit that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a local unit requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a local unit that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits a local unit to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. The bill permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill requires the DEP, in consultation with other government agencies and stakeholders, to develop and periodically update a stormwater utility guidance manual. The guidance manual is to include, but not be limited to: (1) technical assistance for local units seeking to establish a stormwater utility; (2) factors for local units to consider when establishing and revising stormwater utility fees and other charges; (3) information on how to develop an asset management program for stormwater management systems; and (4) information on how local units may conduct public education and outreach related to stormwater management.

The bill exempts costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 which concerns the budgets of certain authorities.

The bill also limits the application of the two percent cap on the growth of fee-funded appropriations at regional sewerage authorities

for counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest federal census

The bill requires a local unit to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system.

As amended and reported, Assembly Bill No. 2694 (ACS) is identical to Senate Bill No. 1073 SCS (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The amendments:

- 1) Specify in the bill's findings, that any stormwater management fee would be based on a fair and equitable approximation of the proportionate contribution of stormwater from a real property;
- 2) provide a partial fee reduction in the form of a credit for any property that maintains and operates a stormwater management system that complies with the State and local stormwater management standards that were in place at the time the system was approved;
- 3) specify that the credit for installing and operating stormwater best management practices applies only if *current* best management practices are used;
- 4) provide that the owner of a stormwater management system that complies with stormwater management standards that were in place at the time the system was approved may retain ownership of the system or may offer to dedicate it to the county, municipality, or authority; an owner who dedicates a system would still be liable for paying any applicable utility fees imposed under the bill;
- 5) limit the application of the two percent cap on the growth of fee-funded appropriations at regional sewerage authorities to counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest federal census; and
- 6) make technical changes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain counties, municipalities, and authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The OLS notes that

the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.

The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to five percent of the fees and other charges collected by each stormwater utility, or \$50,000, whichever is less, that the bill dedicates to the DEP to pay for various stormwater-related costs.

Any county, municipality, or authority that collects fees and other charges through a stormwater utility would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund" which would be specifically dedicated to and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities and other stormwater related programs. The DEP will therefore experience an indeterminate annual revenue and expenditure increase equal to the five percent of all such fees and other charges collected by each stormwater utility, or \$50,000, whichever amount is less.

To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2694
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MAY 3, 2018

SUMMARY

- Synopsis:** Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.
- Type of Impact:** Local government and State expenditure increase offset by a revenue increase through user fees.
- Agencies Affected:** Department of Environmental Protection, counties, municipalities, and certain local authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Increase	Indeterminate
Annual Local Expenditure Increase	Indeterminate
Annual Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain municipalities, counties, and authorities, with these entities serving as a conduit for cost reimbursements through the imposition of stormwater utility user fees.
- The bill will increase the annual expenditures of certain municipalities, counties, and certain authorities by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility user fees. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these user fees, with a small portion funded through bonds and other sources.
- The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to the five percent of the annual fees collected by stormwater utilities as stormwater utility charges that the bill dedicates to the DEP to pay for its various administrative and related costs.

- The OLS notes that the bill does not specify who the user fees would apply to.

BILL DESCRIPTION

This bill would authorize municipalities, counties, and certain local authorities to create and operate stormwater utilities. The bill would permit municipalities and counties to finance the creation, operation, and maintenance of stormwater utilities through the imposition of user fees and the issuance of bonds.

The bill would also require the DEP to create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities. The guidance manual would provide local units with rate structure guidance, including the means and method of computing rates for stormwater utility charges. These charges would be directly related to the specific costs of the stormwater utility. Under the bill, the DEP would receive five percent of the annual fees collected by stormwater utilities as stormwater utility charges to fund program planning, implementation, and coordination activities related to stormwater utilities.

Finally, the bill would authorize municipalities, counties, and authorities to contract with private firms for the operation or improvement of stormwater utilities.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill permits, but does not require, municipalities, counties, and certain authorities to establish and operate stormwater utilities. The bill would also permit municipalities and counties to finance the creation, operation, and maintenance of stormwater utilities through the imposition of user fees and the issuance of bonds. The OLS estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by municipalities, counties, and certain authorities, with the municipalities, counties, and authorities serving as a conduit for cost reimbursements through the imposition of stormwater utility user fees. The OLS cannot quantify these fiscal impacts because of the lack of information on each individual stormwater utility's cost to operate, maintain, and invest in capital improvements.

The bill will increase the annual expenditures of municipalities, counties, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. The cost of establishing and operating stormwater utilities include operation, maintenance, and capital improvement costs. Operation and maintenance costs for a stormwater utility can vary widely, depending on the size of the utility. In addition, the prioritization of capital projects depends on the outcomes and prioritization of needs that come from a stormwater system inventory, which would be specific for each stormwater utility. Further, these projects can vary greatly in cost. Some capital projects may include: installation of Baysaver devices, installation of additional

curb, gutter, or swale conveyances, and implementing green infrastructure opportunities such as slowing or eliminating erosion at outfalls.

The OLS notes that the bill will also increase the annual revenue of municipalities, counties, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. In many cases, operational, maintenance, and capital costs could be almost fully recovered through the imposition of user fees, with a small portion funded through bonds and other sources. To come to this conclusion, the OLS notes that according to the 2016 Stormwater Utility Survey provided by Black & Veatch Management Consulting, LLC, the city of Bellevue in the state of Washington established stormwater utility user fees and recovered 93 percent of its cost for its stormwater utilities through such fees, and the remaining costs from miscellaneous stormwater fees.

In addition, the bill will result in an indeterminate increase in annual DEP administrative expenditures from implementing and administering the provisions of the bill. For example, the bill's provision that requires the DEP to create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities may result in the DEP incurring some marginal administrative costs each year. The OLS notes that, under the bill, the DEP will receive five percent of the annual fees collected by stormwater utilities as stormwater utility charges to fund DEP's program planning, implementation, and coordination activities related to stormwater utilities. Consequently, the DEP will experience an indeterminate annual revenue and expenditure increase equal to the five percent of the annual fees collected by stormwater utilities as stormwater utility charges because of the bill.

The OLS also notes that the bill does not specify who the user fees would apply to.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Neha Mehta Patel
Associate Fiscal Analyst*

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

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

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2694
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 11, 2018

SUMMARY

- Synopsis:** Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.
- Type of Impact:** Local government and State expenditure increase offset by a revenue increase through utility fees and other charges.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, counties, municipalities, and certain local authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Increase	Indeterminate
Annual Local Expenditure Increase	Indeterminate
Annual Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by certain counties, municipalities, and authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges.
- The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.
- The Department of Environmental Protection (DEP) will experience an indeterminate annual revenue and expenditure increase equal to five percent of the fees and other charges collected by each stormwater utility, or \$50,000, whichever is less, that the bill dedicates to the DEP to pay for various stormwater-related costs.

- Any county, municipality, or authority that collects fees and other charges through a stormwater utility would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund” which would be specifically dedicated to and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities and other stormwater related programs. The DEP will therefore experience an indeterminate annual revenue and expenditure increase equal to the five percent of all such fees and other charges collected by each stormwater utility, or \$50,000, whichever amount is less.
- To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

BILL DESCRIPTION

This bill would permit counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Any county, municipality, or authority that establishes a stormwater utility under the bill would be authorized to charge and collect reasonable fees and other charges to recover the utility’s costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining stormwater best management practices that reduce, retain, or treat stormwater onsite. Counties, municipalities, and authorities would also be required to provide an additional credit to any property which has installed and is operating and maintaining green infrastructure onsite. Land actively devoted to agriculture or horticulture (i.e., farmland assessment) would be exempt from any fees and other charges under the bill.

A county, municipality, or authority would be permitted to use fees and other charges collected through the stormwater utility for a variety of stormwater-related purposes. Any county, municipality, or authority that collects fees and other charges under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund,” established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP only to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP’s stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the bill provides counties, municipalities, and authorities with several enforcement mechanisms, which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

A county, municipality, or authority that establishes a stormwater utility would be required to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the bill, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of any privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill would require the DEP, in consultation with other government agencies, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but need not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the "Administrative Procedure Act."

The bill would exempt costs associated with stormwater utilities from the two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and the two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses established in P.L.2017, c.290 (which concerns the budgets of certain authorities).

The bill would require each county, municipality, and authority to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill permits, but does not require, counties, municipalities, and certain authorities to establish and operate stormwater utilities. The bill would also permit counties, municipalities, and certain authorities to finance the creation, operation, and maintenance of stormwater utilities through the imposition of fees and other charges (also known as user fees) and the issuance of bonds. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. The bill also provides counties, municipalities, and authorities with several enforcement mechanisms in the event that a person does not pay a stormwater utility fee or other charge when due. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The OLS estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by counties, municipalities, and certain authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges. The OLS cannot quantify these fiscal impacts because of the lack of information on each individual stormwater utility's cost to operate, maintain, and invest in capital improvements.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish and operate stormwater utilities by an indeterminate amount. The cost of establishing and operating stormwater utilities include operation, maintenance, and capital improvement costs. Operation and maintenance costs for a stormwater utility can vary widely, depending on the size of the utility, location, and age of its infrastructure. In addition, the prioritization of capital projects depends on the outcomes and prioritization of needs that come from a stormwater system inventory or asset management plan, which would be specific for each stormwater utility. Further, these projects can vary greatly in cost. Some capital projects may include: installation of Baysaver devices, installation of additional curb, gutter, or swale conveyances, and implementing green infrastructure such as slowing or eliminating erosion at outfalls. A county, municipality, or authority that establishes a stormwater utility would also be required to submit an annual report to the DCA and DEP which would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees

and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

The OLS notes that the bill will also increase the annual revenue of counties, municipalities, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. In many cases, operational, maintenance, and capital costs could be almost fully recovered through the imposition of fees and other charges, with a small portion funded through bonds and other sources. To come to this conclusion, the OLS notes that according to the 2016 Stormwater Utility Survey provided by Black & Veatch Management Consulting, LLC, the city of Bellevue in the state of Washington established stormwater utility user fees and recovered 93 percent of its cost for its stormwater utilities through such fees, and the remaining costs from miscellaneous stormwater fees.

In addition, the bill will result in an indeterminate increase in annual DEP administrative expenditures from implementing and administering the provisions of the bill. For example, the bill's provision that requires the DEP to create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities may result in the DEP incurring some marginal administrative costs each year. The OLS notes that, under the bill, any county, municipality, or authority that collects fees and other charges would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities. Consequently, the DEP will experience an indeterminate annual revenue and expenditure increase equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less.

Lastly, to the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Neha Mehta Patel
Associate Fiscal Analyst*

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

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

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2694

STATE OF NEW JERSEY

218th LEGISLATURE

DATED: FEBRUARY 5, 2019

SUMMARY

- Synopsis:** Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.
- Type of Impact:** State and local government expenditure increase offset by a revenue increase through utility fees and other charges.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, counties, municipalities, and certain local authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Increase	Indeterminate
Annual Local Expenditure Increase	Indeterminate
Annual Local Revenue Increase	Indeterminate

- The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish a stormwater utility by an indeterminate amount. The OLS notes that the increase in expenditures will be offset by the annual revenue increase from the imposition of stormwater utility fees and other charges. In many cases, operational, maintenance, and capital costs can be almost fully recovered through the imposition of these fees and other charges, with a small portion funded through bonds and other sources.
- Any county, municipality, or authority that collects a stormwater utility fee under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees collected by the stormwater utility, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the “Clean Stormwater and Flood Reduction Fund” which would be specifically dedicated to and used by the Department of Environmental Protection (DEP) for stormwater management purposes. The DEP will therefore experience an indeterminate annual increase in revenues and expenditures.

- To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the local budget. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent of stormwater fees its stormwater utility collects.
- The bill limits application of the two percent cap on annual increases in a regional sewerage authority's fee-funded appropriations and user fees, established by P.L.2017, c.290, to only certain counties. Sewerage authorities that are no longer subject to the cap may spend and raise more revenue from users than under existing law.

BILL DESCRIPTION

This bill would authorize counties, municipalities, and certain authorities to establish stormwater utilities and related fees and other charges.

Any county, municipality, or authority that establishes a stormwater utility under the bill would be authorized to charge and collect reasonable fees and other charges to recover the utility's costs for stormwater management. These fees and other charges would be collected from the owner or occupant, or both, of any real property from which originates stormwater runoff which enters the stormwater management system or the waters of the State. Any fee or other charge would be based on a fair and equitable approximation of the proportionate contribution of stormwater runoff from a real property. In establishing fees and other charges, a county, municipality, or authority would be required to provide a partial fee reduction in the form of a credit for any property that complies with the State or local stormwater management standards that were in place at the time the system was approved. A county, municipality, or authority would be required to provide an additional credit for any property which has installed and is operating and maintaining current stormwater best management practices that reduce, retain, or treat stormwater onsite. A county, municipality, or authority would be required to provide an additional credit for any property which has installed and is operating and maintaining green infrastructure onsite. Under the bill, land actively devoted to agriculture or horticulture would be exempt from any stormwater fee or other charge.

A county, municipality, or authority would be permitted to use stormwater utility fees and other charges for a variety of stormwater-related purposes outlined in the bill. Any county, municipality, or authority that collects fees and other charges under the bill would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities in the State, water quality monitoring and assessment, point and non-point source water pollution reduction projects, implementation of the DEP's stormwater management program, and a public education and outreach program relating to stormwater management. To the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual costs of operation of the stormwater utility to the local budget.

In the event that a person does not pay a stormwater utility fee or other charge when due, the bill provides counties, municipalities, and authorities with several enforcement mechanisms, which are similar to the enforcement mechanisms that currently exist for water and sewer utilities. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid

balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

A county, municipality, or authority that establishes a stormwater utility would be required to submit an annual report in a form and manner determined by the Division of Local Government Services in the Department of Community Affairs (DCA) and the DEP. The annual report would include, but need not be limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges, the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public.

Under the bill, a county, municipality, or authority that establishes a stormwater utility would be permitted to issue bonds for the purpose of raising funds to pay the cost of any part of the stormwater management system. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. However, if a county, municipality, or authority requires any payment as a condition of assuming ownership, operation, or maintenance of a privately-owned stormwater management system, the payment cannot exceed the costs attributable to the stormwater management system.

The bill provides that a county, municipality, or authority that establishes a stormwater utility may enter into a contract with a private entity for the planning, design, engineering, construction, improvement, maintenance, and operation of a stormwater management system. The bill permits counties, municipalities, and authorities to use local competitive contracting in lieu of public bidding for the hiring of a private or nonprofit entity to operate and manage a stormwater management system. It also permits a contract for the operation and management of a stormwater management system by a private entity to last for up to 10 years.

The bill would require the DEP, in consultation with other government agencies, to develop and periodically update a stormwater utility guidance manual. The guidance manual would include, but need not be limited to, technical assistance for counties, municipalities, and authorities seeking to establish a stormwater utility; factors for counties, municipalities, and authorities to consider when establishing stormwater utility fees and other charges; information on how to develop an asset management program for stormwater management systems; and information on how counties, municipalities, and authorities can conduct public education and outreach related to stormwater management. Development of the guidance manual would not be subject to the "Administrative Procedure Act."

Current law, P.L.2017, c.290, imposes a two percent cap on the growth in fee-funded appropriations in the annual budget of a regional sewerage authority, and a two percent cap on amounts billed to customers of the authority or amounts billed to a local unit for its proportional share of the authority's expenses. This bill would limit application of P.L.2017, c.290 to regional sewerage authorities located in counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest federal census. For those regional sewerage authorities still subject to the two percent cap, the bill would exempt costs associated with stormwater utilities from the two percent cap.

The bill would require each county, municipality, and authority that creates a stormwater utility to adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with financial assistance provided for the construction of a stormwater management system under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill permits, but does not require, counties, municipalities, and certain authorities to establish and operate stormwater utilities. The bill also permits counties, municipalities, and certain authorities to finance the creation, operation, and maintenance of stormwater utilities through the imposition of fees and other charges (also known as user fees) and the issuance of bonds. Additionally, the bill provides that a county, municipality, or authority that establishes a stormwater utility may acquire by gift, grant, purchase, condemnation, or in any other lawful manner, any privately-owned stormwater management system or any real property necessary for the construction, improvement, operation, or maintenance of a stormwater management system. The bill also provides counties, municipalities, and authorities with several enforcement mechanisms in the event that a person does not pay a stormwater utility fee or other charge when due. Specifically, interest would accrue on the unpaid fees and other charges; the unpaid balance and any interest accrued thereon would constitute a lien on the parcel which would be enforced in the same manner as delinquent property taxes and municipal charges; and the unpaid balance and any interest accrued thereon, together with attorney's fees, could be recovered in a civil action.

The OLS estimates that the bill will have several indeterminate annual fiscal impacts as the cost to establish and operate stormwater utilities will be incurred by counties, municipalities, and certain authorities. However, these entities will serve as a conduit for cost reimbursements through the imposition of stormwater utility fees and other charges. The OLS cannot quantify these fiscal impacts because of the lack of information on each individual stormwater utility's cost to operate, maintain, and invest in capital improvements.

The bill will increase the annual expenditures of counties, municipalities, and certain authorities that choose to establish and operate stormwater utilities by an indeterminate amount. The cost of establishing and operating stormwater utilities include staffing, planning, and operation, maintenance, and capital improvement costs for stormwater infrastructure. Operation and maintenance costs for a stormwater utility can vary widely, depending on the size of the utility, location, and age of its infrastructure. In addition, the prioritization of capital projects depends on the outcomes and prioritization of needs that come from a stormwater system inventory or asset management plan, which would be specific for each stormwater utility. Further, these projects can vary greatly in cost. Some capital projects may include: installation of Baysaver devices, installation of additional curb, gutter, or swale conveyances, and implementing green infrastructure such as slowing or eliminating erosion at outfalls.

A county, municipality, or authority that establishes a stormwater utility would also be required to submit an annual report to the DCA and DEP which would include, but need not be

limited to, information on the stormwater utility's service area, its schedule of fees and other charges, the number of properties subject to the utility's fees and other charges and the number of properties granted credits, the total revenues from stormwater utility fees and other charges, the percentage of revenues from fees and other charges spent on the purposes authorized in the bill, and a list of stormwater management projects implemented in the previous fiscal year. Counties, municipalities, and authorities would be required to post the annual report on their Internet website for access by the public. These entities would incur some administrative costs in compiling, submitting, and posting the annual report, which would be reimbursed through stormwater utility fees and other charges.

The OLS notes that the bill will also increase the annual revenue of counties, municipalities, and authorities that choose to establish and operate stormwater utilities by an indeterminate amount. In many cases, operational, maintenance, and capital costs could be almost fully recovered through the imposition of fees and other charges, with a small portion funded through bonds and other sources. For example, according to the "2016 Stormwater Utility Survey" prepared by Black & Veatch Management Consulting, LLC, the city of Bellevue in the state of Washington established stormwater utility user fees and recovered 93 percent of its cost for its stormwater utilities through such fees, and the remaining costs from miscellaneous stormwater fees. The amount of any stormwater utility fee would be determined by each county, municipality, or authority that establishes a utility, in accordance with that entity's specific needs. However, according to the "2018 Stormwater Utility Survey," prepared by Black & Veatch Management Consulting, LLC, in 2018, the average monthly single-family residential stormwater fee in the United States was \$5.48.

In addition, the bill will result in an indeterminate increase in annual DEP administrative expenditures from implementing and administering the provisions of the bill. For example, the bill's requirement that the DEP create a stormwater utility guidance manual to provide guidance to municipalities, counties, and authorities seeking to establish stormwater utilities may result in the DEP incurring some marginal administrative costs each year. The OLS notes that, under the bill, any county, municipality, or authority that collects fees and other charges would be required to remit to the State Treasurer annually an amount equal to five percent of all such fees and other charges, or \$50,000, whichever amount is less. The State Treasurer would deposit these moneys into the "Clean Stormwater and Flood Reduction Fund," established in the bill. Moneys deposited in the fund would be specifically dedicated and used by the DEP to fund planning, implementation, and coordination activities related to stormwater utilities. Consequently, the DEP will experience an indeterminate increase in revenues and expenditures.

Current law, P.L.2017, c.290, places a two percent cap on annual increases in a regional sewerage authority's fee-funded appropriations, and the amounts billed to the authority's customers and to local units that are members of the regional sewerage authority. The bill would limit application of the two percent cap to a regional sewerage authority located in a county of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile. Currently, the only county that meets this population size and density criteria is Hudson County, and so, under the bill, the two percent cap would only apply to a regional sewerage authority located in Hudson County. Regional sewerage authorities located elsewhere would no longer be subject to the two percent cap and, thus, could spend more and raise more revenue from users than under existing law. However, a regional sewerage authority could become subject to the two percent cap if the county in which it is located later meets the population size and density criteria specified above. Whether, and how much, a regional sewerage authority increases its spending and user fees depends on a number of factors, including sewerage flow levels, the authority's customer base, its capital investment needs, the provisions of labor contracts, costs of goods and services, levels of non-user fee revenues, and

debt service requirements. Consequently, the precise fiscal impact of this provision is indeterminate.

Lastly, to the extent surplus revenue is collected, the bill would permit counties and municipalities to transfer up to five percent of the annual cost of operation of the utility to the county or municipal budget, as applicable. Consequently, counties and municipalities may experience an indeterminate annual revenue increase equal to up to five percent.

Section: Environment, Agriculture, Energy and Natural Resources

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Senior Counsel*

*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.).



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Newark, N.J.

Governor Murphy Takes Action on Legislation

03/18/2019

TRENTON – Today, Governor Phil Murphy signed the following bills into law

AJR-149 (Schepisi, Jasey, Johnson/Pou, T. Kean) – Designates September of each year as “Brain Aneurysm Awareness Month” in New Jersey.

AJR-164 (Benson, Zwicker, Lampitt/Diegnan, T. Kean) – Establishes "New Jersey Advanced Autonomous Vehicle Task Force."

A-591 (Moriarty, Reynolds-Jackson, Jimenez/Pou, Cruz-Perez) – Prohibits discrimination against cash-paying consumers.

A-1400 (A.M. Bucco, Caputo, DeCroce, Johnson/A.R. Bucco, Gopal) – Revises law governing Class Three special law enforcement officer.

A-4073 (Holley, Carter, Kennedy, Quijano/Scutari, Cryan) – Designates portion of State Highway Route 27 in Union County as "Jerry Green Memorial Highway."

A-4177 (Pintor Marin, Mukherji, Downey/Singleton, Ruiz) – Allows county homelessness trust funds to be used for code blue emergency shelter services.

A-4701 (Spearman, Chiaravalloti, Mukherji, Quijano/Ruiz, Cunningham) – Requires DHS to establish electronic portal to promote surplus food donation collaboration among nonprofit organizations, gleaners, and food retailers.

A-4734 (Land, Taliaferro, Mukherji/Beach, C.A. Brown) – Appropriates \$1,190,349 from constitutionally dedicated CBT revenues to NJ Historic Trust for historic site management grants to certain historic preservation projects and associated administrative expenses.

S-121 (Weinberg, Gill/McKeon, Bramnick, Vainieri Huttle) – Bars provisions in employment contracts that waive rights or remedies; bars agreements that conceal details relating to discrimination claims.

S-641 (Beach, Bateman/Munoz, Thomson, Lampitt) – Upgrades penalty for failing to report act of sexual abuse against child.

S-746 (Diegnan, Cruz-Perez/Vainieri Huttle, Pinkin, Chiaravalloti) – Permits certain audiologists to dispense and fit hearing aids.

S-1073 (Smith, Bateman, Codey, Greenstein/McKeon, Pinkin, Tucker) – Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

S-1773 (Diegnan, Gopal/Calabrese, Chiaravalloti, Tully) – Requires display of identifying information on rear of school bus so public may report bus driver misconduct.

S-2454 (Madden/Murphy, Houghtaling, Downey) – Concerns prevailing wage requirements for certain fabrication.

S-2712 (Ruiz, Madden/Lampitt, Murphy) – Mandates certain training for DOE arbitrators.

S-2714 (Ruiz, Madden/Lampitt, Armato, Murphy) – Requires school districts to notify State Board of Examiners when teaching staff member fails to report child abuse for determination of revocation or suspension of certificate.

S-2715 (Madden, Ruiz/Lampitt, Reynolds-Jackson) – Requires Attorney General to develop protocol for retaining footage from school surveillance system.

S-2773 (Pou/Greenwald, Lopez, Vainieri Huttle) – Clarifies definition of health care service firms and homemaker-home health aides.

S-2922 (Vitale, O'Scanlon/Vainieri Huttle, DiMaso) – Revises standard for presence of medical examiner during removal of anatomical gift from decedent.

Governor Murphy also announced that he has conditionally vetoed the following bills:

A-4904 (Mukherji, Quijano, Mazzeo/Cryan, Sweeney) – Concerns property taxes due and owing on real property owned by certain federal employees or contractors under certain circumstances.

[Copy of Statement on A-4904](#)

S-2129 (Cruz-Perez, Turner/Wimberly, Armato, Lopez, Mazzeo) – Directs certain unclaimed electric and gas utility deposits in Unclaimed Utility Deposits Trust Fund and societal charge revenues be paid to Statewide nonprofit energy assistance organizations meeting certain eligibility criteria.

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