

40:14A-8

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 29

NJSA: 40:14A-8. (Requires regional municipal authorities-reduced sewer connection fees)

BILL NO: A1769 (Substituted for S1343)

SPONSOR(S): Sires and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Housing and Local Government; Appropriations
SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 13, 2004

SENATE: December 6, 2004

DATE OF APPROVAL: January 26, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) 2nd reprint enacted

A1769

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [1-22-2004 \(Housing\)](#)
[2-9-2004 \(Approp\)](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S1343

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

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HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 2/16/07

§2 - C.40:14A-8.3
§5 - C.40:14B-22.3
§6 - C.58:14-36

P.L. 2005, CHAPTER 29, *approved January 26, 2005*
Assembly, No. 1769 (*Second Reprint*)

1 **AN ACT** requiring the assessment of reduced rates by municipal and
2 county sewerage authorities and utilities authorities ²and the Passaic
3 Valley Sewerage Commissioners² for certain affordable housing
4 projects, and amending and supplementing P.L.1946, c.138
5 (C.40:14A-1 et seq.) and P.L.1957, c.183 (C.40:14B-1 et seq.) ²and
6 supplementing chapter 14 of Title 58 of the Revised Statutes².

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State of
9 New Jersey:

10
11 1. Section 8 of P.L.1946, c.138 (C.40:14A-8) is amended to read as
12 follows:

13 8. (a) Every sewerage authority is hereby authorized to charge and
14 collect rents, rates, fees or other charges (in this act sometimes referred
15 to as "service charges") for direct or indirect connection with, or the use
16 or services of, the sewerage system. Such service charges may be
17 charged to and collected from any person contracting for such
18 connection or use or services or from the owner or occupant, or both
19 of them, of any real property which directly or indirectly is or has been
20 connected with the system or from or on which originates or has
21 originated sewage or other wastes which directly or indirectly have
22 entered or may enter the sewerage system, and the owner of any such
23 real property shall be liable for and shall pay such service charges to the
24 sewerage authority at the time when and the place where such service
25 charges are due and payable.

26 (b) Rents, rates, fees and charges, which may be payable periodically,
27 being in the nature of use or service charges, shall as nearly as the
28 sewerage authority shall deem practicable and equitable be uniform
29 throughout the district for the same type, class and amount of use or
30 service of the sewerage system, except as permitted by section 1 of
31 P.L.1994, c.78 (C.40:14A-8.2), and may be based or computed either
32 on the consumption of water on or in connection with the real property,
33 making due allowance for commercial use of water, or on the number
34 and kind of water outlets on or in connection with the real property, or
35 on the number and kind of plumbing or sewerage fixtures or facilities on
36 or in connection with the real property, or on the number of persons
37 residing or working on or otherwise connected or identified with the
38 real property, or on the capacity of the improvements on or connected

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted February 9, 2004.

² Senate SCU committee amendments adopted June 21, 2004.

1 with the real property, or on any other factors determining the type,
2 class and amount of use or service of the sewerage system, or on any
3 combination of any such factors, and may give weight to the
4 characteristics of the sewage and other wastes and any other special
5 matter affecting the cost of treatment and disposal thereof, including
6 chlorine demand, biochemical oxygen demand, concentration of solids
7 and chemical composition. In addition to any such periodic service
8 charges, a separate charge in the nature of a connection fee or tapping
9 fee, in respect of each connection of any property with the sewerage
10 system, may be imposed upon the owner or occupant of the property so
11 connected. Such connection charges shall be uniform within each class
12 of users, except as provided by section 2 of P.L. c. (C.)(now
13 before the Legislature as this bill), and the amount thereof shall not
14 exceed the actual cost of the physical connection, if made by the
15 authority, plus an amount computed in the following manner to
16 represent a fair payment toward the cost of the system:

17 (1) The amount representing all debt service, including but not
18 limited to sinking funds, reserve funds, the principal and interest on
19 bonds, and the amount of any loans and interest thereon, paid by the
20 sewerage authority to defray the capital cost of developing the system
21 as of the end of the immediately preceding fiscal year of the authority
22 shall be added to all capital expenditures made by the authority not
23 funded by a bond ordinance or debt for the development of the system
24 as of the end of the immediately preceding fiscal year of the authority.

25 (2) Any gifts, contributions or subsidies to the authority received
26 from, and not reimbursed or reimbursable to any federal, State, county
27 or municipal government or agency or any private person, and that
28 portion of amounts paid to the authority by a public entity under a
29 service agreement or service contract which is not repaid to the public
30 entity by the authority, shall then be subtracted.

31 (3) The remainder shall be divided by the total number of service
32 units served by the authority at the end of the immediately preceding
33 fiscal year of the authority, and the results shall then be apportioned to
34 each new connector according to the number of service units attributed
35 to that connector, to produce the connector's contribution to the cost
36 of the system. In attributing service units to each connector, the
37 estimated average daily flow of sewage for the connector shall be
38 divided by the average daily flow of sewage for the average single
39 family residence in the authority's district to produce the number of
40 service units to be attributed.

41 The connection fee shall be recomputed at the end of each fiscal year
42 of the authority, after a public hearing is held in the manner prescribed
43 in subsection (c) of this section. The revised connection fee may be
44 imposed upon those who subsequently connect in that fiscal year to the
45 system. The combination of such connection fee or tapping fee and the
46 aforesaid periodic service charges shall meet the requirements of

1 subsection (c) hereof.

2 (c) The sewerage authority shall prescribe and from time to time
3 when necessary revise a schedule of service charges, which shall comply
4 with the terms of any contract of the sewerage authority and in any
5 event shall be such that the revenues of the sewerage authority will at
6 all times be adequate to pay all expenses of operation and maintenance
7 of the sewerage system, including reserves, insurance, extensions, and
8 replacements, and to pay punctually the principal of and interest on any
9 bonds and to maintain such reserves or sinking funds therefor as may be
10 required by the terms of any contract of the sewerage authority or as
11 may be deemed necessary or desirable by the sewerage authority. Said
12 schedule shall thus be prescribed and from time to time revised by the
13 sewerage authority after public hearing thereon which shall be held by
14 the sewerage authority at least 20 days after notice of the proposed
15 adjustment is mailed to the clerk of each municipality serviced by the
16 authority and publication of notice of the proposed adjustment of the
17 service charges and of the time and place of the public hearing in at least
18 two newspapers of general circulation in the area serviced by the
19 authority. The sewerage authority shall provide evidence at the hearing
20 showing that the proposed adjustment of the service charges is
21 necessary and reasonable, and shall provide the opportunity for
22 cross-examination of persons offering such evidence, and a transcript of
23 the hearing shall be made and a copy thereof shall be available upon
24 request to any interested party at a reasonable fee. The sewerage
25 authority shall likewise fix and determine the time or times when and the
26 place or places where such service charges shall be due and payable and
27 may require that such service charges shall be paid in advance for
28 periods of not more than one year. A copy of such schedule of service
29 charges in effect shall at all times be kept on file at the principal office
30 of the sewerage authority and shall at all reasonable times be open to
31 public inspection.

32 (d) Any county sewerage authority may establish sewerage regions
33 in portions of the district. Rents, rates, fees and charges which may be
34 payable periodically, being in the nature of use or service charges, shall
35 as nearly as the sewerage authority shall deem practicable and equitable,
36 be uniform throughout the district for the same type, class and amount
37 of use or service of the sewerage systems, except as permitted by
38 section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall meet all other
39 requirements of subsection (b) hereof.

40 (cf: P.L.1994, c.78, s.2)

41

42 2. (New section) a. A county, regional or municipal sewerage
43 authority shall establish within its rates or schedules a 50% reduction in
44 the connection fee or tapping fee assessed pursuant to section 8 of
45 P.L.1946, c.138 (C.40:14A-8) for ¹[connection with] new connections
46 to¹ the sewerage system which is ¹to be¹ charged to public housing

1 authorities and to non-profit organizations building affordable housing
2 projects.

3 b. For units previously connected to the authority's system that were
4 demolished or refurbished to allow for new affordable housing units
5 and for which a connection or tapping fee was ¹previously¹ paid, a
6 county, regional or municipal sewerage authority shall establish within
7 its rates or schedules a credit against the connection fee or tapping fee
8 ¹to be¹ assessed for connection with the sewerage system to public
9 housing authorities and non-profit organizations building affordable
10 projects ¹[in an amount equal to] .The credit shall be¹ the connection
11 fee or tapping fee previously assessed and paid for connection with the
12 sewerage system for units previously connected to the authority's
13 system.

14 ¹c.¹ The connection fee or tapping fee assessable against a public
15 housing authority or non-profit organization ¹, for units previously
16 connected to the authority's system that were demolished or refurbished
17 to allow for new affordable housing units.¹ shall be the lesser of the
18 reduced rate provided for in subsection a. of this section, or the
19 ¹current¹ non-reduced rate applicable to other types of housing
20 developments minus the credit provided under subsection b. of this
21 section for units for which a connection fee or tapping fee was
22 previously paid ¹, provided that said public housing authority or non-
23 profit organization can establish the connection fee or tapping fee
24 ²was² previously assessed and paid for connection with the system. If
25 the same cannot be established, the reduced rate provided for in
26 subsection a. of this section shall be assessed.¹

27
28 3. Section 21 of P.L.1957, c.183 (C.40:14B-21) is amended to read
29 as follows:

30 21. ²a.² Every municipal authority is hereby authorized to charge
31 and collect rents, rates, fees or other charges (in this act sometimes
32 referred to as "water service charges") for direct or indirect connection
33 with, or the use, products or services of, the water system, or for sale
34 of water or water ²supply² services, ²water supply² facilities or
35 products. Such water service charges may be charged to and collected
36 from any person contracting for such connection or use, products or
37 services or for such sale or from the owner or occupant, or both of
38 them, of any real property which directly or indirectly is or has been
39 connected with the water system or to which directly or indirectly has
40 been supplied or furnished such use, products or services of the water
41 system or water or water services, facilities or products, and the owner
42 of any such real property shall be liable for and shall pay such water
43 service charges to the municipal authority at the time when and place
44 where such water service charges are due and payable. Such rents,
45 rates, fees and charges shall as nearly as the municipal authority shall
46 deem practicable and equitable be uniform throughout the district for

1 the same type, class and amount of use, products or services of the
2 water system, except as permitted by section 1 of P.L.1992, c.215
3 (C.40:14B-22.2), and may be based or computed either on the
4 consumption of water on or in connection with the real property, or on
5 the number and kind of water outlets on or in connection with the real
6 property, or on the number and kind of plumbing fixtures or facilities on
7 or in connection with the real property, or on the number of persons
8 residing or working on or otherwise connected or identified with the
9 real property, or on the capacity of the improvements on or connected
10 with the real property, or on any other factors determining the type,
11 class and amount of use, products or services of the water system
12 supplied or furnished, or on any combination of such factors, and may
13 give weight to the characteristics of the water or water services,
14 facilities or products and, as to service outside the district, any other
15 matter affecting the cost of supplying or furnishing the same, including
16 the cost of installation of necessary physical properties.

17 ²Every municipal authority that furnishes water supply services or
18 operates water supply facilities shall establish a rate structure that
19 provides for uniform water service charges for water supply service and
20 fire protection systems.

21 No municipal authority may impose standby fees or charges for any
22 fire protection system to a residential customer served by a water
23 service line of two inches or less in diameter.

24 Nothing in this section shall preclude a municipal authority from
25 requiring separate dedicated service lines for fire protection. A
26 municipal authority may require that fire service lines be metered.
27 Nothing in this section shall alter the liability for maintenance and repair
28 of service lines which exists on the effective date of P.L.2003, c.278.

29 b.² In addition to any such water service charges, a separate charge
30 in the nature of a connection fee or tapping fee, in respect of each
31 connection of any property with the water system, may be imposed upon
32 the owner or occupant of the property so connected. Such connection
33 charges shall be uniform within each class of users, except as provided
34 by section 5 of P.L. c. (C.) (now before the Legislature as this
35 bill), and the amount thereof shall not exceed the actual cost of the
36 physical connection, if made by the authority, plus an amount computed
37 in the following manner to represent a fair payment toward the cost of
38 the system:

39 ²[a.](1)² The amount representing all debt service, including but not
40 limited to sinking funds, reserve funds, the principal and interest on
41 bonds, and the amount of any loans and interest thereon, paid by a
42 municipal authority to defray the capital cost of developing the system
43 as of the end of the immediately preceding fiscal year of the authority
44 shall be added to all capital expenditures made by the authority not
45 funded by a bond ordinance or debt for the development of the system
46 as of the end of the immediately preceding fiscal year of the authority.

1 ²[b.](2)² Any gifts, contributions or subsidies to the authority
2 received from, and not reimbursed or reimbursable to any federal, State,
3 county or municipal government or agency or any private person, and
4 that portion of amounts paid to the authority by a public entity under a
5 service agreement or service contract which is not repaid to the public
6 entity by the authority, shall then be subtracted.

7 ²[c.](3)² The remainder shall be divided by the total number of
8 service units served by the authority at the end of the immediately
9 preceding fiscal year of the authority, and the results shall then be
10 apportioned to each new connector according to the number of service
11 units attributed to that connector, to produce the connector's
12 contribution to the cost of the system. In attributing service units to
13 each connector, the estimated average daily flow of water for the
14 connector shall be divided by the average daily flow of water to the
15 average single family residence in the authority's district, to produce the
16 number of service units to be attributed.

17 ²c.² The connection fee shall be recomputed at the end of each fiscal
18 year of the authority, after a public hearing is held in the manner
19 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised
20 connection fee may be imposed upon those who subsequently connect
21 in that fiscal year to the system. The combination of such connection fee
22 or tapping fee and the aforesaid water service charges shall meet the
23 requirements of section 23 of P.L.1957, c.183 (C.40:14B-23).

24 ²d.² The foregoing notwithstanding, no municipal authority shall
25 impose any charges or fees in excess of the cost of water actually used
26 for any sprinkler system required to be installed in any residential health
27 care facility pursuant to the "Health Care Facilities Planning Act,"
28 P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated
29 thereunder or in any rooming or boarding house pursuant to the
30 "Rooming and Boarding House Act of 1979," P.L.1979, c.496
31 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing
32 ²[in this amendatory act] herein² shall preclude any municipal authority
33 from charging for the actual cost of water main connection, except as
34 provided by section 5 of P.L. c. (C.) (now before the
35 Legislature as this bill).

36 (cf: P.L.2003, c.278, s.1)

37

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

40 22. Every municipal authority is hereby authorized to charge and
41 collect rents, rates, fees or other charges (in this act sometimes referred
42 to as "sewerage service charges") for direct or indirect connection with,
43 or the use or services of, the sewerage system. Such sewerage service
44 charges may be charged to and collected from any person contracting
45 for such connection or use or services or from the owner or occupant,
46 or both of them, of any real property which directly or indirectly is or

1 has been connected with the sewerage system or from or on which
2 originates or has originated sewage or other wastes which directly or
3 indirectly have entered or may enter the sewerage system, and the
4 owner of any such real property shall be liable for and shall pay such
5 sewerage service charges to the municipal authority at the time when
6 and place where such sewerage service charges are due and payable.
7 Such rents, rates, fees and charges, being in the nature of use or service
8 charges, shall as nearly as the municipal authority shall deem practicable
9 and equitable be uniform throughout the district for the same type, class
10 and amount of use or service of the sewerage system, except as
11 permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be
12 based or computed either on the consumption of water on or in
13 connection with the real property, making due allowance for commercial
14 use of water, or on the number and kind of water outlets on or in
15 connection with the real property, or on the number and kind of
16 plumbing or sewerage fixtures or facilities on or in connection with the
17 real property, or on the number of persons residing or working on or
18 otherwise connected or identified with the real property, or on the
19 capacity of the improvements on or connected with the real property,
20 or on any other factors determining the type, class and amount of use
21 or service of the sewerage system, or on any combination of any such
22 factors, and may give weight to the characteristics of the sewage and
23 other wastes and any other special matter affecting the cost of treatment
24 and disposal of the same, including chlorine demand, biochemical
25 oxygen demand, concentration of solids and chemical composition, and,
26 as to service outside the district, the cost of installation of necessary
27 physical properties.

28 In addition to any such sewerage service charges, a separate charge
29 in the nature of a connection fee or tapping fee, in respect of each
30 connection of any property with the sewerage system, may be imposed
31 upon the owner or occupant of the property so connected. Such
32 connection charges shall be uniform within each class of users, except
33 as provided by section 5 of P.L. c. (C.)(now before the
34 Legislature as this bill), and the amount thereof shall not exceed the
35 actual cost of the physical connection, if made by the authority, plus an
36 amount computed in the following manner to represent a fair payment
37 towards the cost of the system:

- 38 a. The amount representing all debt service, including but not limited
39 to sinking funds, reserve funds, the principal and interest on bonds, and
40 the amount of any loans and the interest thereon, paid by the municipal
41 authority to defray the capital cost of developing the system as of the
42 end of the immediately preceding fiscal year of the authority shall be
43 added to all capital expenditures made by a municipal authority not
44 funded by a bond ordinance or debt for the development of the system
45 as of the end of the immediately preceding fiscal year of the authority.
46 b. Any gifts, contributions or subsidies to the authority received

1 from, and not reimbursed or reimbursable to, any federal, State, county
2 or municipal government or agency or any private person, and that
3 portion of amounts paid to the authority by a public entity under a
4 service agreement or service contract which is not repaid to the public
5 entity by the authority, shall then be subtracted.

6 c. The remainder shall be divided by the total number of service units
7 served by the authority at the end of the immediately preceding fiscal
8 year of the authority, and the results shall then be apportioned to each
9 new connector according to the number of service units attributed to
10 that connector. In attributing service units to each connector, the
11 estimated average daily flow of sewage for the connector shall be
12 divided by the average daily flow of sewage from the average single
13 family residence in the authority's district, to produce the number of
14 service units to be attributed.

15 The connection fee shall be recomputed at the end of each fiscal year
16 of the authority, after a public hearing is held in the manner prescribed
17 in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised
18 connection fee may be imposed upon those who subsequently connect
19 in that fiscal year to the system.

20 The combination of such connection fee or tapping fee and the
21 aforesaid sewerage service charges shall meet the requirements of
22 section 23.

23 (cf: P.L.1992, c.215, s.2)

24

25 5. (New section) a. A county, regional or municipal utilities
26 authority shall establish within its rates or schedules a 50% reduction in
27 the connection fee or tapping fee assessed pursuant to section 21 of
28 P.L.1957, c.183 (C.40:14B-21) for ¹[connection with] new connections
29 to¹ the water system and a 50% reduction in the connection fee or
30 tapping fee assessed pursuant to section 22 of P.L.1957, c.183
31 (C.40:14B-22) for ¹[connection with] new connections to¹ the
32 sewerage system which are ¹to be¹ charged to public housing authorities
33 and to non-profit organizations building affordable housing projects.

34 b. For units previously connected to the authority's system that were
35 demolished or refurbished to allow for new affordable housing units
36 and for which a connection fee was ¹previously¹ paid, a county, regional
37 or municipal utilities authority shall establish within its rates or
38 schedules a credit against the connection fee or tapping fee ¹to be¹
39 assessed for connection with the water system or the sewerage system
40 to public housing authorities and non-profit organizations building
41 affordable housing projects ¹[in an amount equal to] . The credit shall
42 be¹ the connection fee or tapping fee previously assessed and paid for
43 connection with the water system or the sewerage system for units
44 previously connected to the authority's system.

45 ¹c.¹ The connection fee or tapping fee assessable against a public
46 housing authority or non-profit organization ¹, for units previously

1 connected to the authority's system that were demolished or refurbished
2 to allow for new affordable housing units,¹ shall be the lesser of the
3 reduced rate provided for in subsection a. of this section, or the
4 ¹current¹ non-reduced rate applicable to other types of housing
5 developments minus the credit provided under subsection b. of this
6 section for units for which a connection fee or tapping fee was
7 previously paid ¹, provided that said public housing authority or non-
8 profit organization can establish the connection fee or tapping fee
9 ²was² previously assessed and paid for connection with the system. If
10 the same cannot be established, the reduced rate provided for in
11 subsection a. of this section shall be assessed¹.

12
13 ²6. (New section) a. Notwithstanding the provisions of section 1
14 of P.L.1976, c.125 (C.58:14-35) or any other provision of law, rule or
15 regulation to the contrary, the Passaic Valley Sewerage Commissioners
16 shall establish within its leases, contracts, rates or schedules, as
17 appropriate, a 50% reduction in the connection fee or tapping fee
18 assessed for new connections to the sewerage system which are to be
19 charged to public housing authorities and to non-profit organizations
20 building affordable housing projects.

21 b. For units previously connected to the sewerage system that were
22 demolished or refurbished to allow for new affordable housing units and
23 for which a connection fee was previously paid, the commissioners shall
24 establish within its leases, contracts, rates or schedules, as appropriate,
25 a credit against the connection fee or tapping fee to be assessed for
26 connection with the sewerage system to public housing authorities and
27 non-profit organizations building affordable housing projects. The
28 credit shall be the connection fee or tapping fee previously assessed and
29 paid for connection with the sewerage system for units previously
30 connected to the sewerage system.

31 c. The connection fee or tapping fee assessable against a public
32 housing authority or non-profit organization, for units previously
33 connected to the sewerage system that were demolished or refurbished
34 to allow for new affordable housing units, shall be the lesser of the
35 reduced rate provided for in subsection a. of this section, or the current
36 non-reduced rate applicable to other types of housing developments
37 minus the credit provided under subsection b. of this section for units
38 for which a connection fee or tapping fee was previously paid, provided
39 that said public housing authority or non-profit organization can
40 establish that the connection fee or tapping fee was previously assessed
41 and paid for connection with the system. If the same cannot be
42 established, the reduced rate provided for in subsection a. of this section
43 shall be assessed.²

44
45 ¹[6.] ^{7.}¹ This act shall take effect immediately.

1

2

3 Requires regional municipal and county utilities and the Passaic Valley

4 Sewerage Commissioners to provide reduced sewer and water

5 connection fees for certain affordable housing projects.

ASSEMBLY, No. 1769

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblyman ALBIO SIRES

District 33 (Hudson)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires municipal and county utilities to provide reduced sewer and water connection fees for certain affordable housing projects.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A1769 SIRES, GREEN

2

1 AN ACT requiring the assessment of reduced rates by municipal and
2 county sewerage authorities and utilities authorities for certain
3 affordable housing projects, and amending and supplementing
4 P.L.1946, c.138 (C.40:14A-1 et seq.) and P.L.1957, c.183
5 (C.40:14B-1 et seq.).

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

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

12 8. (a) Every sewerage authority is hereby authorized to charge and
13 collect rents, rates, fees or other charges (in this act sometimes
14 referred to as "service charges") for direct or indirect connection with,
15 or the use or services of, the sewerage system. Such service charges
16 may be charged to and collected from any person contracting for such
17 connection or use or services or from the owner or occupant, or both
18 of them, of any real property which directly or indirectly is or has been
19 connected with the system or from or on which originates or has
20 originated sewage or other wastes which directly or indirectly have
21 entered or may enter the sewerage system, and the owner of any such
22 real property shall be liable for and shall pay such service charges to
23 the sewerage authority at the time when and the place where such
24 service charges are due and payable.

25 (b) Rents, rates, fees and charges, which may be payable
26 periodically, being in the nature of use or service charges, shall as
27 nearly as the sewerage authority shall deem practicable and equitable
28 be uniform throughout the district for the same type, class and amount
29 of use or service of the sewerage system, except as permitted by
30 section 1 of P.L.1994, c.78 (C.40:14A-8.2), and may be based or
31 computed either on the consumption of water on or in connection with
32 the real property, making due allowance for commercial use of water,
33 or on the number and kind of water outlets on or in connection with
34 the real property, or on the number and kind of plumbing or sewerage
35 fixtures or facilities on or in connection with the real property, or on
36 the number of persons residing or working on or otherwise connected
37 or identified with the real property, or on the capacity of the
38 improvements on or connected with the real property, or on any other
39 factors determining the type, class and amount of use or service of the
40 sewerage system, or on any combination of any such factors, and may
41 give weight to the characteristics of the sewage and other wastes and
42 any other special matter affecting the cost of treatment and disposal
43 thereof, including chlorine demand, biochemical oxygen demand,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 concentration of solids and chemical composition. In addition to any
2 such periodic service charges, a separate charge in the nature of a
3 connection fee or tapping fee, in respect of each connection of any
4 property with the sewerage system, may be imposed upon the owner
5 or occupant of the property so connected. Such connection charges
6 shall be uniform within each class of users, except as provided by
7 section 2 of P.L. c. (C. _____)(now before the Legislature as this
8 bill), and the amount thereof shall not exceed the actual cost of the
9 physical connection, if made by the authority, plus an amount
10 computed in the following manner to represent a fair payment toward
11 the cost of the system:

12 (1) The amount representing all debt service, including but not
13 limited to sinking funds, reserve funds, the principal and interest on
14 bonds, and the amount of any loans and interest thereon, paid by the
15 sewerage authority to defray the capital cost of developing the system
16 as of the end of the immediately preceding fiscal year of the authority
17 shall be added to all capital expenditures made by the authority not
18 funded by a bond ordinance or debt for the development of the system
19 as of the end of the immediately preceding fiscal year of the authority.

20 (2) Any gifts, contributions or subsidies to the authority received
21 from, and not reimbursed or reimbursable to any federal, State, county
22 or municipal government or agency or any private person, and that
23 portion of amounts paid to the authority by a public entity under a
24 service agreement or service contract which is not repaid to the public
25 entity by the authority, shall then be subtracted.

26 (3) The remainder shall be divided by the total number of service
27 units served by the authority at the end of the immediately preceding
28 fiscal year of the authority, and the results shall then be apportioned
29 to each new connector according to the number of service units
30 attributed to that connector, to produce the connector's contribution
31 to the cost of the system. In attributing service units to each
32 connector, the estimated average daily flow of sewage for the
33 connector shall be divided by the average daily flow of sewage for the
34 average single family residence in the authority's district to produce
35 the number of service units to be attributed.

36 The connection fee shall be recomputed at the end of each fiscal
37 year of the authority, after a public hearing is held in the manner
38 prescribed in subsection (c) of this section. The revised connection fee
39 may be imposed upon those who subsequently connect in that fiscal
40 year to the system. The combination of such connection fee or tapping
41 fee and the aforesaid periodic service charges shall meet the
42 requirements of subsection (c) hereof.

43 (c) The sewerage authority shall prescribe and from time to time
44 when necessary revise a schedule of service charges, which shall
45 comply with the terms of any contract of the sewerage authority and
46 in any event shall be such that the revenues of the sewerage authority

1 will at all times be adequate to pay all expenses of operation and
2 maintenance of the sewerage system, including reserves, insurance,
3 extensions, and replacements, and to pay punctually the principal of
4 and interest on any bonds and to maintain such reserves or sinking
5 funds therefor as may be required by the terms of any contract of the
6 sewerage authority or as may be deemed necessary or desirable by the
7 sewerage authority. Said schedule shall thus be prescribed and from
8 time to time revised by the sewerage authority after public hearing
9 thereon which shall be held by the sewerage authority at least 20 days
10 after notice of the proposed adjustment is mailed to the clerk of each
11 municipality serviced by the authority and publication of notice of the
12 proposed adjustment of the service charges and of the time and place
13 of the public hearing in at least two newspapers of general circulation
14 in the area serviced by the authority. The sewerage authority shall
15 provide evidence at the hearing showing that the proposed adjustment
16 of the service charges is necessary and reasonable, and shall provide
17 the opportunity for cross-examination of persons offering such
18 evidence, and a transcript of the hearing shall be made and a copy
19 thereof shall be available upon request to any interested party at a
20 reasonable fee. The sewerage authority shall likewise fix and determine
21 the time or times when and the place or places where such service
22 charges shall be due and payable and may require that such service
23 charges shall be paid in advance for periods of not more than one year.
24 A copy of such schedule of service charges in effect shall at all times
25 be kept on file at the principal office of the sewerage authority and
26 shall at all reasonable times be open to public inspection.

27 (d) Any county sewerage authority may establish sewerage regions
28 in portions of the district. Rents, rates, fees and charges which may
29 be payable periodically, being in the nature of use or service charges,
30 shall as nearly as the sewerage authority shall deem practicable and
31 equitable, be uniform throughout the district for the same type, class
32 and amount of use or service of the sewerage systems, except as
33 permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall
34 meet all other requirements of subsection (b) hereof.
35 (cf: P.L.1994, c.78, s.2)

36
37 2. (New section) a. A county, regional or municipal sewerage
38 authority shall establish within its rates or schedules a 50% reduction
39 in the connection fee or tapping fee assessed pursuant to section 8 of
40 P.L.1946, c.138 (C.40:14A-8) for connection with the sewerage
41 system which is charged to public housing authorities and to non-profit
42 organizations building affordable housing projects.

43 b. For units previously connected to the authority's system that
44 were demolished or refurbished to allow for new affordable housing
45 units and for which a connection or tapping fee was paid, a county,
46 regional or municipal sewerage authority shall establish within its rates

1 or schedules a credit against the connection fee or tapping fee assessed
2 for connection with the sewerage system to public housing authorities
3 and non-profit organizations building affordable projects in an amount
4 equal to the connection fee or tapping fee previously assessed and
5 paid for connection with the sewerage system for units previously
6 connected to the authority's system. The connection fee or tapping fee
7 assessable against a public housing authority or non-profit
8 organization shall be the lesser of the reduced rate provided for in
9 subsection a. of this section, or the non-reduced rate applicable to
10 other types of housing developments minus the credit provided under
11 subsection b. of this section for units for which a connection fee or
12 tapping fee was previously paid.

13

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

16 21. Every municipal authority is hereby authorized to charge and
17 collect rents, rates, fees or other charges (in this act sometimes
18 referred to as "water service charges") for direct or indirect connection
19 with, or the use, products or services of, the water system, or for sale
20 of water or water services, facilities or products. Such water service
21 charges may be charged to and collected from any person contracting
22 for such connection or use, products or services or for such sale or
23 from the owner or occupant, or both of them, of any real property
24 which directly or indirectly is or has been connected with the water
25 system or to which directly or indirectly has been supplied or furnished
26 such use, products or services of the water system or water or water
27 services, facilities or products, and the owner of any such real property
28 shall be liable for and shall pay such water service charges to the
29 municipal authority at the time when and place where such water
30 service charges are due and payable. Such rents, rates, fees and
31 charges shall as nearly as the municipal authority shall deem
32 practicable and equitable be uniform throughout the district for the
33 same type, class and amount of use, products or services of the water
34 system, except as permitted by section 1 of P.L.1992, c.215
35 (C.40:14B-22.2), and may be based or computed either on the
36 consumption of water on or in connection with the real property, or on
37 the number and kind of water outlets on or in connection with the real
38 property, or on the number and kind of plumbing fixtures or facilities
39 on or in connection with the real property, or on the number of
40 persons residing or working on or otherwise connected or identified
41 with the real property, or on the capacity of the improvements on or
42 connected with the real property, or on any other factors determining
43 the type, class and amount of use, products or services of the water
44 system supplied or furnished, or on any combination of such factors,
45 and may give weight to the characteristics of the water or water
46 services, facilities or products and, as to service outside the district,

1 any other matter affecting the cost of supplying or furnishing the same,
2 including the cost of installation of necessary physical properties.

3 In addition to any such water service charges, a separate charge in
4 the nature of a connection fee or tapping fee, in respect of each
5 connection of any property with the water system, may be imposed
6 upon the owner or occupant of the property so connected. Such
7 connection charges shall be uniform within each class of users, except
8 as provided by section 5 of P.L. c. (C.) (now before the
9 Legislature as this bill), and the amount thereof shall not exceed the
10 actual cost of the physical connection, if made by the authority, plus
11 an amount computed in the following manner to represent a fair
12 payment toward the cost of the system:

13 a. The amount representing all debt service, including but not
14 limited to sinking funds, reserve funds, the principal and interest on
15 bonds, and the amount of any loans and interest thereon, paid by a
16 municipal authority to defray the capital cost of developing the system
17 as of the end of the immediately preceding fiscal year of the authority
18 shall be added to all capital expenditures made by the authority not
19 funded by a bond ordinance or debt for the development of the system
20 as of the end of the immediately preceding fiscal year of the authority.

21 b. Any gifts, contributions or subsidies to the authority received
22 from, and not reimbursed or reimbursable to any federal, State, county
23 or municipal government or agency or any private person, and that
24 portion of amounts paid to the authority by a public entity under a
25 service agreement or service contract which is not repaid to the public
26 entity by the authority, shall then be subtracted.

27 c. The remainder shall be divided by the total number of service
28 units served by the authority at the end of the immediately preceding
29 fiscal year of the authority, and the results shall then be apportioned
30 to each new connector according to the number of service units
31 attributed to that connector, to produce the connector's contribution
32 to the cost of the system. In attributing service units to each
33 connector, the estimated average daily flow of water for the connector
34 shall be divided by the average daily flow of water to the average
35 single family residence in the authority's district, to produce the
36 number of service units to be attributed.

37 The connection fee shall be recomputed at the end of each fiscal
38 year of the authority, after a public hearing is held in the manner
39 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The
40 revised connection fee may be imposed upon those who subsequently
41 connect in that fiscal year to the system. The combination of such
42 connection fee or tapping fee and the aforesaid water service charges
43 shall meet the requirements of section 23 of P.L.1957, c.183
44 (C.40:14B-23). The foregoing notwithstanding, no municipal
45 authority shall impose any charges or fees in excess of the cost of
46 water actually used for any sprinkler system required to be installed in

1 any residential health care facility pursuant to the "Health Care
2 Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and
3 regulations promulgated thereunder or in any rooming or boarding
4 house pursuant to the "Rooming and Boarding House Act of 1979,"
5 P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated
6 thereunder. Nothing in this amendatory act shall preclude any
7 municipal authority from charging for the actual cost of water main
8 connection, except as provided by section 5 of P.L. c.
9 (C.)(now before the Legislature as this bill).
10 (cf: P.L.1994, c.78, s.3)

11

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

14 22. Every municipal authority is hereby authorized to charge and
15 collect rents, rates, fees or other charges (in this act sometimes
16 referred to as "sewerage service charges") for direct or indirect
17 connection with, or the use or services of, the sewerage system. Such
18 sewerage service charges may be charged to and collected from any
19 person contracting for such connection or use or services or from the
20 owner or occupant, or both of them, of any real property which
21 directly or indirectly is or has been connected with the sewerage
22 system or from or on which originates or has originated sewage or
23 other wastes which directly or indirectly have entered or may enter the
24 sewerage system, and the owner of any such real property shall be
25 liable for and shall pay such sewerage service charges to the municipal
26 authority at the time when and place where such sewerage service
27 charges are due and payable. Such rents, rates, fees and charges, being
28 in the nature of use or service charges, shall as nearly as the municipal
29 authority shall deem practicable and equitable be uniform throughout
30 the district for the same type, class and amount of use or service of the
31 sewerage system, except as permitted by section 1 of P.L.1992, c.215
32 (C.40:14B-22.2), and may be based or computed either on the
33 consumption of water on or in connection with the real property,
34 making due allowance for commercial use of water, or on the number
35 and kind of water outlets on or in connection with the real property,
36 or on the number and kind of plumbing or sewerage fixtures or
37 facilities on or in connection with the real property, or on the number
38 of persons residing or working on or otherwise connected or identified
39 with the real property, or on the capacity of the improvements on or
40 connected with the real property, or on any other factors determining
41 the type, class and amount of use or service of the sewerage system,
42 or on any combination of any such factors, and may give weight to the
43 characteristics of the sewage and other wastes and any other special
44 matter affecting the cost of treatment and disposal of the same,
45 including chlorine demand, biochemical oxygen demand, concentration
46 of solids and chemical composition, and, as to service outside the

1 district, the cost of installation of necessary physical properties.

2 In addition to any such sewerage service charges, a separate charge
3 in the nature of a connection fee or tapping fee, in respect of each
4 connection of any property with the sewerage system, may be imposed
5 upon the owner or occupant of the property so connected. Such
6 connection charges shall be uniform within each class of users, except
7 as provided by section 5 of P.L. c. (C.)(now before the
8 Legislature as this bill), and the amount thereof shall not exceed the
9 actual cost of the physical connection, if made by the authority, plus
10 an amount computed in the following manner to represent a fair
11 payment towards the cost of the system:

12 a. The amount representing all debt service, including but not
13 limited to sinking funds, reserve funds, the principal and interest on
14 bonds, and the amount of any loans and the interest thereon, paid by
15 the municipal authority to defray the capital cost of developing the
16 system as of the end of the immediately preceding fiscal year of the
17 authority shall be added to all capital expenditures made by a
18 municipal authority not funded by a bond ordinance or debt for the
19 development of the system as of the end of the immediately preceding
20 fiscal year of the authority.

21 b. Any gifts, contributions or subsidies to the authority received
22 from, and not reimbursed or reimbursable to, any federal, State,
23 county or municipal government or agency or any private person, and
24 that portion of amounts paid to the authority by a public entity under
25 a service agreement or service contract which is not repaid to the
26 public entity by the authority, shall then be subtracted.

27 c. The remainder shall be divided by the total number of service
28 units served by the authority at the end of the immediately preceding
29 fiscal year of the authority, and the results shall then be apportioned
30 to each new connector according to the number of service units
31 attributed to that connector. In attributing service units to each
32 connector, the estimated average daily flow of sewage for the
33 connector shall be divided by the average daily flow of sewage from
34 the average single family residence in the authority's district, to
35 produce the number of service units to be attributed.

36 The connection fee shall be recomputed at the end of each fiscal
37 year of the authority, after a public hearing is held in the manner
38 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The
39 revised connection fee may be imposed upon those who subsequently
40 connect in that fiscal year to the system.

41 The combination of such connection fee or tapping fee and the
42 aforesaid sewerage service charges shall meet the requirements of
43 section 23.

44 (cf: P.L.1992, c.215, s.2)

45

46 5. (New section) a. A county, regional or municipal utilities

1 authority shall establish within its rates or schedules a 50% reduction
2 in the connection fee or tapping fee assessed pursuant to section 21 of
3 P.L.1957, c.183 (C.40:14B-21) for connection with the water system
4 and a 50% reduction in the connection fee or tapping fee assessed
5 pursuant to section 22 of P.L.1957, c.183 (C.40:14B-22) for
6 connection with the sewerage system which are charged to public
7 housing authorities and to non-profit organizations building affordable
8 housing projects.

9 b. For units previously connected to the authority's system that
10 were demolished or refurbished to allow for new affordable housing
11 units and for which a connection fee was paid, a county, regional or
12 municipal utilities authority shall establish within its rates or schedules
13 a credit against the connection fee or tapping fee assessed for
14 connection with the water system or the sewerage system to public
15 housing authorities and non-profit organizations building affordable
16 housing projects in an amount equal to the connection fee or tapping
17 fee previously assessed and paid for connection with the water system
18 or the sewerage system for units previously connected to the
19 authority's system. The connection fee or tapping fee assessable
20 against a public housing authority or non-profit organization shall be
21 the lesser of the reduced rate provided for in subsection a. of this
22 section, or the non-reduced rate applicable to other types of housing
23 developments minus the credit provided under subsection b. of this
24 section for units for which a connection fee or tapping fee was
25 previously paid.

26

27 6. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill would require regional, county or municipal sewerage
33 authorities created pursuant to the "sewerage authorities law,"
34 P.L.1946, c.138 (C.40:14A-1 et seq.) and regional, county and
35 municipal utility authorities created pursuant to the "municipal and
36 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.)
37 to charge discounted sewer and water connection fees to public
38 housing authorities and non-profit organizations building affordable
39 housing projects.

40 Specifically, this bill would require sewerage authorities and utilities
41 authorities to give public housing authorities and non-profit
42 organizations building affordable housing projects a 50 percent
43 discount on the connection fee or tapping fee assessed for connection
44 to the water system or sewerage system. In addition, this bill would
45 require sewerage authorities and utilities authorities to provide credit
46 when calculating the connection fee or tapping fee to public housing

1 authorities and non-profit organizations building affordable housing
2 projects for those existing units previously connected to the authority's
3 system that were demolished or refurbished to allow for the new
4 affordable housing units. Connection fees to public housing
5 authorities and non-profit organizations building affordable housing
6 projects that consist of replacement units for demolished or
7 refurbished units, and for which connection or tapping fees were
8 previously assessed and paid, will be computed by charging the public
9 housing authorities and non-profit organizations the lesser of: the
10 reduced fee (50%), or a fee based on the connection charges for
11 market rate developments, minus the amount of any connection or
12 tapping fees previously paid for the housing units being replaced.

13 In various cases the Supreme Court of New Jersey has indicated that
14 municipalities have an affirmative obligation to facilitate the provision
15 of the infrastructure necessary to make the development of affordable
16 housing realistically possible. In a recent case, *Toll Brothers, Inc. v.*
17 *Township of West Windsor*, __ N.J. __ (decided August 1, 2002), the
18 Supreme Court noted that the trial court had found, in part, that the
19 municipality's sewer construction and financing requirements were
20 unduly cost-generative, and thus served as a disincentive to the
21 development of affordable housing. While this case specifically
22 concerned whether a developer was entitled to a site-specific builder's
23 remedy, the principles it espoused should be furthered applied to
24 public housing authorities and non-profit organizations building
25 affordable housing projects to assist in the creation of new affordable
26 housing units. The provision of public water and sanitary sewers
27 should not unnecessarily increase the cost of affordable development.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1769

STATE OF NEW JERSEY

DATED: JANUARY 22, 2004

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No.1769.

This bill would require regional, county or municipal sewerage authorities created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) and regional, county and municipal utility authorities created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to charge discounted sewer and water connection fees to public housing authorities and non-profit organizations building affordable housing projects.

Specifically, this bill would require sewerage authorities and utilities authorities to give public housing authorities and non-profit organizations building affordable housing projects a 50 percent discount on the connection fee or tapping fee assessed for connection to the water system or sewerage system. In addition, the bill would require sewerage authorities and utilities authorities to provide credit when calculating the connection fee or tapping fee to public housing authorities and non-profit organizations building affordable housing projects for those existing units previously connected to the authority's system that were demolished or refurbished to allow for the new affordable housing units. Connection fees to public housing authorities and non-profit organizations building affordable housing projects that consist of replacement units for demolished or refurbished units, and for which connection or tapping fees were previously assessed and paid, will be computed by charging the public housing authorities and non-profit organizations the lesser of: the reduced fee (50%), or a fee based on the connection charges for market rate developments, minus the amount of any connection or tapping fees previously paid for the housing units being replaced.

The Supreme Court of New Jersey has indicated that municipalities have an affirmative obligation to facilitate the provision of the infrastructure necessary to make the development of affordable housing realistically possible. This bill will help to ensure that the provision of public water and sanitary sewers should not unnecessarily increase the cost of affordable housing provided by a public housing authority or a non-profit builder.

This bill was prefiled for introduction in the 2004 session pending technical review. As reported, the bill includes changes required by technical review, which has been performed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1769

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1769, with committee amendments.

Assembly Bill No.1769, as amended, requires regional, county and municipal sewerage authorities created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) and regional, county and municipal utility authorities created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to charge discounted sewer and water connection fees to public housing authorities and non-profit organizations building affordable housing projects.

The bill requires sewerage authorities and utilities authorities to give public housing authorities and non-profit organizations building affordable housing projects a 50 percent discount on the connection fee or tapping fee assessed for connection to the water system or sewerage system.

In addition, the bill requires sewerage authorities and utilities authorities to provide credit when calculating the connection fee or tapping fee to public housing authorities and non-profit organizations building affordable housing projects for those existing units previously connected to the authority's system that were demolished or refurbished to allow for the new affordable housing units. Connection fees to public housing authorities and non-profit organizations building affordable housing projects that consist of replacement units for demolished or refurbished units, and for which connection or tapping fees were previously assessed and paid, will be computed by charging the public housing authorities and non-profit organizations the lesser of: (1) the reduced fee (50%); or (2) a fee based on the connection charges for market rate developments minus the amount of any connection or tapping fees previously paid for the housing units being replaced.

The Supreme Court of New Jersey has indicated that municipalities have an affirmative obligation to facilitate the provision of the infrastructure necessary to make the development of affordable housing realistically possible. This bill will help to ensure that the provision

of public water and sanitary sewers should not unnecessarily increase the cost of affordable housing provided by a public housing authority or a non-profit builder.

FISCAL IMPACT:

This bill does not increase or decrease State or local revenues or expenditures. Because the various utility authorities charge differing amounts for connection fees, and because it is not possible to determine the number or location of projects that may be undertaken in the future, no estimate of the total fiscal impact of the bill may be made. The discounted fees under the bill may legally become part of the total revenue stream considered as part of the sewerage and utility rate-making process, and the discounted fees may be compensated for by increased fees for all of the other ratepayers of the utilities.

COMMITTEE AMENDMENTS:

The amendments clarify the language in sections 2 and 5 of the bill addressing connection fees for existing connections now being used for affordable housing.

Minority Statement

By Assemblymen Pennachio, Corodemus, Merkt and Myers

This bill purports to promote the development of affordable housing. It does so by requiring county, regional or municipal authorities to provide a significant discount in the connection fees charged to public housing authorities and nonprofit organizations building affordable housing projects. Offering incentives for the development of affordable housing is a laudable goal, however, the method chosen in this bill is flawed.

First, the sponsors have chosen to mandate that county, regional and municipal sewerage and water authorities offer a fifty-percent discount on their connection fees to all public housing authorities and nonprofit organizations which build affordable housing. No discretion is given to these authorities to determine an appropriate rate as is currently done with setting charges for senior citizens and the permanently disabled. A mandated rate reduction of fifty-percent seems excessive.

Second, while charges are being reduced for those building low and moderate income housing, a new state tax is being imposed on market-rate housing. Many people already are being shut out of a housing market where the average sale price is in excess of \$300,000. With the shifting of costs recommended in this bill, housing will be further out of reach.

The sponsors of the legislation are mandating a cost-shift between ratepayers. This is being done because it would be illegal for the State to require the local unit of government in which the proposed housing is to be located to absorb the cost. However, it is legal to shift costs onto other ratepayers. This bill creates what will henceforth be known as State Mandate-Homeowner Pay.

For these reasons, we cannot support this bill.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1769

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 21, 2004

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1769 (1R).

As amended by the committee, this bill would require various entities to charge discounted sewer and water connection fees to public housing authorities and non-profit organizations building affordable housing projects. In particular, the bill, as amended, would affect: regional, county and municipal sewerage authorities created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); regional, county and municipal utility authorities created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); and the Passaic Valley Sewerage Commissioners, continued pursuant to R.S.58:14-1 et seq.

The bill, as amended, would require those entities to give public housing authorities and non-profit organizations building affordable housing projects a 50 percent discount on the connection fee or tapping fee assessed for connection to the water system or sewerage system.

In addition, the bill, as amended, would require sewerage authorities, utilities authorities and the Passaic Valley Sewerage Commissioners to provide credit when calculating the connection fee or tapping fee to public housing authorities and non-profit organizations building affordable housing projects for those existing units previously connected to a water or sewerage system if the units were demolished or refurbished to allow for new affordable housing units. Connection fees to public housing authorities and non-profit organizations building affordable housing projects that consist of replacement units for demolished or refurbished units, and for which connection or tapping fees were previously assessed and paid, will be computed by charging the public housing authorities and non-profit organizations the lesser of: (1) the reduced fee (50%); or (2) a fee based on the connection charges for market rate developments minus the amount of any connection or tapping fees previously paid for the

housing units being replaced.

The committee amended the bill for the following reasons:

- * to insert a new section 6 to require the Passaic Valley Sewerage Commissioners to establish a 50% reduction in connection fees to the Passaic Valley Sewerage System for public housing authorities and to non-profit organizations building affordable housing projects;
- * to make technical corrections at sections 2 and 5 to make the bill read better; and
- * to update the underlying section of law being amended in section 3 to accurately reflect current law after adoption of P.L.2003, c.278.

SENATE, No. 1343

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MARCH 22, 2004

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Requires regional municipal and county utilities to provide reduced sewer and water connection fees for certain affordable housing projects.

CURRENT VERSION OF TEXT

As introduced.



S1343 KENNY

2

1 AN ACT requiring the assessment of reduced rates by municipal and
2 county sewerage authorities and utilities authorities for certain
3 affordable housing projects, and amending and supplementing
4 P.L.1946, c.138 (C.40:14A-1 et seq.) and P.L.1957, c.183
5 (C.40:14B-1 et seq.).

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

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

12 8. (a) Every sewerage authority is hereby authorized to charge and
13 collect rents, rates, fees or other charges (in this act sometimes
14 referred to as "service charges") for direct or indirect connection with,
15 or the use or services of, the sewerage system. Such service charges
16 may be charged to and collected from any person contracting for such
17 connection or use or services or from the owner or occupant, or both
18 of them, of any real property which directly or indirectly is or has been
19 connected with the system or from or on which originates or has
20 originated sewage or other wastes which directly or indirectly have
21 entered or may enter the sewerage system, and the owner of any such
22 real property shall be liable for and shall pay such service charges to
23 the sewerage authority at the time when and the place where such
24 service charges are due and payable.

25 (b) Rents, rates, fees and charges, which may be payable
26 periodically, being in the nature of use or service charges, shall as
27 nearly as the sewerage authority shall deem practicable and equitable
28 be uniform throughout the district for the same type, class and amount
29 of use or service of the sewerage system, except as permitted by
30 section 1 of P.L.1994, c.78 (C.40:14A-8.2), and may be based or
31 computed either on the consumption of water on or in connection with
32 the real property, making due allowance for commercial use of water,
33 or on the number and kind of water outlets on or in connection with
34 the real property, or on the number and kind of plumbing or sewerage
35 fixtures or facilities on or in connection with the real property, or on
36 the number of persons residing or working on or otherwise connected
37 or identified with the real property, or on the capacity of the
38 improvements on or connected with the real property, or on any other
39 factors determining the type, class and amount of use or service of the
40 sewerage system, or on any combination of any such factors, and may
41 give weight to the characteristics of the sewage and other wastes and
42 any other special matter affecting the cost of treatment and disposal
43 thereof, including chlorine demand, biochemical oxygen demand,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 concentration of solids and chemical composition. In addition to any
2 such periodic service charges, a separate charge in the nature of a
3 connection fee or tapping fee, in respect of each connection of any
4 property with the sewerage system, may be imposed upon the owner
5 or occupant of the property so connected. Such connection charges
6 shall be uniform within each class of users, except as provided by
7 section 2 of P.L. c. (C. _____)(now before the Legislature as this
8 bill), and the amount thereof shall not exceed the actual cost of the
9 physical connection, if made by the authority, plus an amount
10 computed in the following manner to represent a fair payment toward
11 the cost of the system:

12 (1) The amount representing all debt service, including but not
13 limited to sinking funds, reserve funds, the principal and interest on
14 bonds, and the amount of any loans and interest thereon, paid by the
15 sewerage authority to defray the capital cost of developing the system
16 as of the end of the immediately preceding fiscal year of the authority
17 shall be added to all capital expenditures made by the authority not
18 funded by a bond ordinance or debt for the development of the system
19 as of the end of the immediately preceding fiscal year of the authority.

20 (2) Any gifts, contributions or subsidies to the authority received
21 from, and not reimbursed or reimbursable to any federal, State, county
22 or municipal government or agency or any private person, and that
23 portion of amounts paid to the authority by a public entity under a
24 service agreement or service contract which is not repaid to the public
25 entity by the authority, shall then be subtracted.

26 (3) The remainder shall be divided by the total number of service
27 units served by the authority at the end of the immediately preceding
28 fiscal year of the authority, and the results shall then be apportioned
29 to each new connector according to the number of service units
30 attributed to that connector, to produce the connector's contribution
31 to the cost of the system. In attributing service units to each
32 connector, the estimated average daily flow of sewage for the
33 connector shall be divided by the average daily flow of sewage for the
34 average single family residence in the authority's district to produce
35 the number of service units to be attributed.

36 The connection fee shall be recomputed at the end of each fiscal
37 year of the authority, after a public hearing is held in the manner
38 prescribed in subsection (c) of this section. The revised connection fee
39 may be imposed upon those who subsequently connect in that fiscal
40 year to the system. The combination of such connection fee or tapping
41 fee and the aforesaid periodic service charges shall meet the
42 requirements of subsection (c) hereof.

43 (c) The sewerage authority shall prescribe and from time to time
44 when necessary revise a schedule of service charges, which shall
45 comply with the terms of any contract of the sewerage authority and
46 in any event shall be such that the revenues of the sewerage authority

1 will at all times be adequate to pay all expenses of operation and
2 maintenance of the sewerage system, including reserves, insurance,
3 extensions, and replacements, and to pay punctually the principal of
4 and interest on any bonds and to maintain such reserves or sinking
5 funds therefor as may be required by the terms of any contract of the
6 sewerage authority or as may be deemed necessary or desirable by the
7 sewerage authority. Said schedule shall thus be prescribed and from
8 time to time revised by the sewerage authority after public hearing
9 thereon which shall be held by the sewerage authority at least 20 days
10 after notice of the proposed adjustment is mailed to the clerk of each
11 municipality serviced by the authority and publication of notice of the
12 proposed adjustment of the service charges and of the time and place
13 of the public hearing in at least two newspapers of general circulation
14 in the area serviced by the authority. The sewerage authority shall
15 provide evidence at the hearing showing that the proposed adjustment
16 of the service charges is necessary and reasonable, and shall provide
17 the opportunity for cross-examination of persons offering such
18 evidence, and a transcript of the hearing shall be made and a copy
19 thereof shall be available upon request to any interested party at a
20 reasonable fee. The sewerage authority shall likewise fix and determine
21 the time or times when and the place or places where such service
22 charges shall be due and payable and may require that such service
23 charges shall be paid in advance for periods of not more than one year.
24 A copy of such schedule of service charges in effect shall at all times
25 be kept on file at the principal office of the sewerage authority and
26 shall at all reasonable times be open to public inspection.

27 (d) Any county sewerage authority may establish sewerage regions
28 in portions of the district. Rents, rates, fees and charges which may
29 be payable periodically, being in the nature of use or service charges,
30 shall as nearly as the sewerage authority shall deem practicable and
31 equitable, be uniform throughout the district for the same type, class
32 and amount of use or service of the sewerage systems, except as
33 permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall
34 meet all other requirements of subsection (b) hereof.
35 (cf: P.L.1994, c.78, s.2)

36
37 2. (New section) a. A county, regional or municipal sewerage
38 authority shall establish within its rates or schedules a 50% reduction
39 in the connection fee or tapping fee assessed pursuant to section 8 of
40 P.L.1946, c.138 (C.40:14A-8) for new connections to the sewerage
41 system which is to be charged to public housing authorities and to
42 non-profit organizations building affordable housing projects.

43 b. For units previously connected to the authority's system that
44 were demolished or refurbished to allow for new affordable housing
45 units and for which a connection or tapping fee was previously paid,
46 a county, regional or municipal sewerage authority shall establish

1 within its rates or schedules a credit against the connection fee or
2 tapping fee to be assessed for connection with the sewerage system to
3 public housing authorities and non-profit organizations building
4 affordable projects. The credit shall be the connection fee or tapping
5 fee previously assessed and paid for connection with the sewerage
6 system for units previously connected to the authority's system.

7 c. The connection fee or tapping fee assessable against a public
8 housing authority or non-profit organization , for units previously
9 connected to the authority's system that were demolished or
10 refurbished to allow for new affordable housing units, shall be the
11 lesser of the reduced rate provided for in subsection a. of this section,
12 or the current non-reduced rate applicable to other types of housing
13 developments minus the credit provided under subsection b. of this
14 section for units for which a connection fee or tapping fee was
15 previously paid ,provided that said public housing authority or non-
16 profit organization can establish the connection fee or tapping fee
17 previously assessed and paid for connection with the system. If the
18 same cannot be established, the reduced rate provided for in
19 subsection a. of this section shall be assessed.

20

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

23 21. Every municipal authority is hereby authorized to charge and
24 collect rents, rates, fees or other charges (in this act sometimes
25 referred to as "water service charges") for direct or indirect connection
26 with, or the use, products or services of, the water system, or for sale
27 of water or water services, facilities or products. Such water service
28 charges may be charged to and collected from any person contracting
29 for such connection or use, products or services or for such sale or
30 from the owner or occupant, or both of them, of any real property
31 which directly or indirectly is or has been connected with the water
32 system or to which directly or indirectly has been supplied or furnished
33 such use, products or services of the water system or water or water
34 services, facilities or products, and the owner of any such real property
35 shall be liable for and shall pay such water service charges to the
36 municipal authority at the time when and place where such water
37 service charges are due and payable. Such rents, rates, fees and
38 charges shall as nearly as the municipal authority shall deem
39 practicable and equitable be uniform throughout the district for the
40 same type, class and amount of use, products or services of the water
41 system, except as permitted by section 1 of P.L.1992, c.215
42 (C.40:14B-22.2), and may be based or computed either on the
43 consumption of water on or in connection with the real property, or on
44 the number and kind of water outlets on or in connection with the real
45 property, or on the number and kind of plumbing fixtures or facilities
46 on or in connection with the real property, or on the number of

1 persons residing or working on or otherwise connected or identified
2 with the real property, or on the capacity of the improvements on or
3 connected with the real property, or on any other factors determining
4 the type, class and amount of use, products or services of the water
5 system supplied or furnished, or on any combination of such factors,
6 and may give weight to the characteristics of the water or water
7 services, facilities or products and, as to service outside the district,
8 any other matter affecting the cost of supplying or furnishing the same,
9 including the cost of installation of necessary physical properties.

10 In addition to any such water service charges, a separate charge in
11 the nature of a connection fee or tapping fee, in respect of each
12 connection of any property with the water system, may be imposed
13 upon the owner or occupant of the property so connected. Such
14 connection charges shall be uniform within each class of users, except
15 as provided by section 5 of P.L. c. (C.) (now before the
16 Legislature as this bill), and the amount thereof shall not exceed the
17 actual cost of the physical connection, if made by the authority, plus
18 an amount computed in the following manner to represent a fair
19 payment toward the cost of the system:

20 a. The amount representing all debt service, including but not
21 limited to sinking funds, reserve funds, the principal and interest on
22 bonds, and the amount of any loans and interest thereon, paid by a
23 municipal authority to defray the capital cost of developing the system
24 as of the end of the immediately preceding fiscal year of the authority
25 shall be added to all capital expenditures made by the authority not
26 funded by a bond ordinance or debt for the development of the system
27 as of the end of the immediately preceding fiscal year of the authority.

28 b. Any gifts, contributions or subsidies to the authority received
29 from, and not reimbursed or reimbursable to any federal, State, county
30 or municipal government or agency or any private person, and that
31 portion of amounts paid to the authority by a public entity under a
32 service agreement or service contract which is not repaid to the public
33 entity by the authority, shall then be subtracted.

34 c. The remainder shall be divided by the total number of service
35 units served by the authority at the end of the immediately preceding
36 fiscal year of the authority, and the results shall then be apportioned
37 to each new connector according to the number of service units
38 attributed to that connector, to produce the connector's contribution
39 to the cost of the system. In attributing service units to each
40 connector, the estimated average daily flow of water for the connector
41 shall be divided by the average daily flow of water to the average
42 single family residence in the authority's district, to produce the
43 number of service units to be attributed.

44 The connection fee shall be recomputed at the end of each fiscal
45 year of the authority, after a public hearing is held in the manner
46 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The

1 revised connection fee may be imposed upon those who subsequently
2 connect in that fiscal year to the system. The combination of such
3 connection fee or tapping fee and the aforesaid water service charges
4 shall meet the requirements of section 23 of P.L.1957, c.183
5 (C.40:14B-23). The foregoing notwithstanding, no municipal
6 authority shall impose any charges or fees in excess of the cost of
7 water actually used for any sprinkler system required to be installed in
8 any residential health care facility pursuant to the "Health Care
9 Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and
10 regulations promulgated thereunder or in any rooming or boarding
11 house pursuant to the "Rooming and Boarding House Act of 1979,"
12 P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated
13 thereunder. Nothing in this amendatory act shall preclude any
14 municipal authority from charging for the actual cost of water main
15 connection, except as provided by section 5 of P.L. c.
16 (C.) (now before the Legislature as this bill).
17 (cf: P.L.1994, c.78, s.3)

18

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

21 22. Every municipal authority is hereby authorized to charge and
22 collect rents, rates, fees or other charges (in this act sometimes
23 referred to as "sewerage service charges") for direct or indirect
24 connection with, or the use or services of, the sewerage system. Such
25 sewerage service charges may be charged to and collected from any
26 person contracting for such connection or use or services or from the
27 owner or occupant, or both of them, of any real property which
28 directly or indirectly is or has been connected with the sewerage
29 system or from or on which originates or has originated sewage or
30 other wastes which directly or indirectly have entered or may enter the
31 sewerage system, and the owner of any such real property shall be
32 liable for and shall pay such sewerage service charges to the municipal
33 authority at the time when and place where such sewerage service
34 charges are due and payable. Such rents, rates, fees and charges, being
35 in the nature of use or service charges, shall as nearly as the municipal
36 authority shall deem practicable and equitable be uniform throughout
37 the district for the same type, class and amount of use or service of the
38 sewerage system, except as permitted by section 1 of P.L.1992, c.215
39 (C.40:14B-22.2), and may be based or computed either on the
40 consumption of water on or in connection with the real property,
41 making due allowance for commercial use of water, or on the number
42 and kind of water outlets on or in connection with the real property,
43 or on the number and kind of plumbing or sewerage fixtures or
44 facilities on or in connection with the real property, or on the number
45 of persons residing or working on or otherwise connected or identified
46 with the real property, or on the capacity of the improvements on or

1 connected with the real property, or on any other factors determining
2 the type, class and amount of use or service of the sewerage system,
3 or on any combination of any such factors, and may give weight to the
4 characteristics of the sewage and other wastes and any other special
5 matter affecting the cost of treatment and disposal of the same,
6 including chlorine demand, biochemical oxygen demand, concentration
7 of solids and chemical composition, and, as to service outside the
8 district, the cost of installation of necessary physical properties.

9 In addition to any such sewerage service charges, a separate charge
10 in the nature of a connection fee or tapping fee, in respect of each
11 connection of any property with the sewerage system, may be imposed
12 upon the owner or occupant of the property so connected. Such
13 connection charges shall be uniform within each class of users, except
14 as provided by section 5 of P.L. c. (C.) (now before the
15 Legislature as this bill), and the amount thereof shall not exceed the
16 actual cost of the physical connection, if made by the authority, plus
17 an amount computed in the following manner to represent a fair
18 payment towards the cost of the system:

19 a. The amount representing all debt service, including but not
20 limited to sinking funds, reserve funds, the principal and interest on
21 bonds, and the amount of any loans and the interest thereon, paid by
22 the municipal authority to defray the capital cost of developing the
23 system as of the end of the immediately preceding fiscal year of the
24 authority shall be added to all capital expenditures made by a
25 municipal authority not funded by a bond ordinance or debt for the
26 development of the system as of the end of the immediately preceding
27 fiscal year of the authority.

28 b. Any gifts, contributions or subsidies to the authority received
29 from, and not reimbursed or reimbursable to, any federal, State,
30 county or municipal government or agency or any private person, and
31 that portion of amounts paid to the authority by a public entity under
32 a service agreement or service contract which is not repaid to the
33 public entity by the authority, shall then be subtracted.

34 c. The remainder shall be divided by the total number of service
35 units served by the authority at the end of the immediately preceding
36 fiscal year of the authority, and the results shall then be apportioned
37 to each new connector according to the number of service units
38 attributed to that connector. In attributing service units to each
39 connector, the estimated average daily flow of sewage for the
40 connector shall be divided by the average daily flow of sewage from
41 the average single family residence in the authority's district, to
42 produce the number of service units to be attributed.

43 The connection fee shall be recomputed at the end of each fiscal
44 year of the authority, after a public hearing is held in the manner
45 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The
46 revised connection fee may be imposed upon those who subsequently

1 connect in that fiscal year to the system.

2 The combination of such connection fee or tapping fee and the
3 aforesaid sewerage service charges shall meet the requirements of
4 section 23.

5 (cf: P.L.1992, c.215, s.2)

6

7 5. (New section) a. A county, regional or municipal utilities
8 authority shall establish within its rates or schedules a 50% reduction
9 in the connection fee or tapping fee assessed pursuant to section 21 of
10 P.L.1957, c.183 (C.40:14B-21) for new connections to the water
11 system and a 50% reduction in the connection fee or tapping fee
12 assessed pursuant to section 22 of P.L.1957, c.183 (C.40:14B-22) for
13 new connections to the sewerage system which are to be charged to
14 public housing authorities and to non-profit organizations building
15 affordable housing projects.

16 b. For units previously connected to the authority's system that
17 were demolished or refurbished to allow for new affordable housing
18 units and for which a connection fee was previously paid, a county,
19 regional or municipal utilities authority shall establish within its rates
20 or schedules a credit against the connection fee or tapping fee to be
21 assessed for connection with the water system or the sewerage system
22 to public housing authorities and non-profit organizations building
23 affordable housing projects . The credit shall be the connection fee or
24 tapping fee previously assessed and paid for connection with the water
25 system or the sewerage system for units previously connected to the
26 authority's system.

27 c. The connection fee or tapping fee assessable against a public
28 housing authority or non-profit organization , for units previously
29 connected to the authority's system that were demolished or
30 refurbished to allow for new affordable housing units, shall be the
31 lesser of the reduced rate provided for in subsection a. of this section,
32 or the current non-reduced rate applicable to other types of housing
33 developments minus the credit provided under subsection b. of this
34 section for units for which a connection fee or tapping fee was
35 previously paid , provided that said public housing authority or non-
36 profit organization can establish the connection fee or tapping fee
37 previously assessed and paid for connection with the system. If the
38 same cannot be established, the reduced rate provided for in
39 subsection a. of this section shall be assessed.

40

41 6. This act shall take effect immediately.

42

43

44 STATEMENT

45

46 This bill requires regional, county and municipal sewerage

1 authorities created pursuant to the "sewerage authorities law,"
2 P.L.1946, c.138 (C.40:14A-1 et seq.) and regional, county and
3 municipal utility authorities created pursuant to the "municipal and
4 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.)
5 to charge discounted sewer and water connection fees to public
6 housing authorities and non-profit organizations building affordable
7 housing projects.

8 The bill requires sewerage authorities and utilities authorities to
9 give public housing authorities and non-profit organizations building
10 affordable housing projects a 50 percent discount on the connection
11 fee or tapping fee assessed for connection to the water system or
12 sewerage system.

13 In addition, the bill requires sewerage authorities and utilities
14 authorities to provide credit when calculating the connection fee or
15 tapping fee to public housing authorities and non-profit organizations
16 building affordable housing projects for those existing units previously
17 connected to the authority's system that were demolished or
18 refurbished to allow for the new affordable housing units. Connection
19 fees to public housing authorities and non-profit organizations building
20 affordable housing projects that consist of replacement units for
21 demolished or refurbished units, and for which connection or tapping
22 fees were previously assessed and paid, will be computed by charging
23 the public housing authorities and non-profit organizations the lesser
24 of: (1) the reduced fee (50%); or (2) a fee based on the connection
25 charges for market rate developments minus the amount of any
26 connection or tapping fees previously paid for the housing units being
27 replaced.

28 The Supreme Court of New Jersey has indicated that municipalities
29 have an affirmative obligation to facilitate the provision of the
30 infrastructure necessary to make the development of affordable housing
31 realistically possible. This bill will help to ensure that the provision
32 of public water and sanitary sewers should not unnecessarily increase
33 the cost of affordable housing provided by a public housing authority
34 or a non-profit builder.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 1769
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: MARCH 22, 2004

SUMMARY

- Synopsis:** Requires regional municipal and county utilities to provide reduced sewer and water connection fees for certain affordable housing projects
- Type of Impact:** Loss of revenue for utilities established pursuant to "sewerage authorities law" (C.40:14A-1 et seq.) and "municipal and county utilities authorities law" (C.40:14B-1 et seq.).
- Agencies Affected:** Local utilities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None	None	None
Local Utility	(\$2,047,821)	(\$2,047,821)	(\$2,047,821)
Revenue Loss	Potential foregone revenue	Potential foregone revenue	Potential foregone revenue

- * The Office of Legislative Services (OLS) estimates the average annual loss of revenue to all local utility authorities pursuant to this bill would be approximately \$2,047,821.
- * This bill would require regional, county and municipal sewerage authorities created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) and regional, county and municipal utility authorities created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to charge discounted sewer and water connection fees to public housing authorities and non-profit organizations building affordable housing projects.
- * The bill would require sewerage authorities and water utility authorities to give public housing authorities and non-profit organizations building affordable housing projects a 50 percent discount on the connection fee or tapping fee assessed for connection to the water system or sewerage system.
- * For those existing units previously connected to the utility authority's system that were demolished or refurbished to allow for the new affordable housing units the bill would require the sewerage authorities and water utility authorities to provide credit when calculating the connection fee or tapping fee to public housing authorities and non-profit organizations building the affordable housing projects.

- * Connection fees to public housing authorities and non-profit organizations building affordable housing projects that consist of replacement units for demolished or refurbished units, and for which connection or tapping fees were previously assessed and paid, will be computed by charging the public housing authorities and non-profit organizations the lesser of: the reduced fee (50 percent), or a fee based on the connection charges for market rate developments, minus the amount of any connection or tapping fees previously paid for the housing units being replaced.

BILL DESCRIPTION

Assembly Bill No. 1769 of 2004 would require regional, county and municipal sewerage authorities created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) and regional, county and municipal utility authorities created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to charge discounted sewer and water connection fees to public housing authorities and non-profit organizations building affordable housing projects.

Specifically, this bill would require sewerage authorities and utilities authorities to give public housing authorities and non-profit organizations building affordable housing projects a 50 percent discount on the connection fee or tapping fee assessed for connection to the water system or sewerage system. In addition, the bill would require sewerage authorities and utilities authorities to provide credit when calculating the connection fee or tapping fee to public housing authorities and non-profit organizations building affordable housing projects for those existing units previously connected to the authority's system that were demolished or refurbished to allow for the new affordable housing units. Connection fees to public housing authorities and non-profit organizations building affordable housing projects that consist of replacement units for demolished or refurbished units, and for which connection or tapping fees were previously assessed and paid, will be computed by charging the public housing authorities and non-profit organizations the lesser of: the reduced fee (50 percent), or a fee based on the connection charges for market rate developments, minus the amount of any connection or tapping fees previously paid for the housing units being replaced.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates the average annual foregone revenue to the local utility authorities established pursuant to the "sewerage authorities law" (C.40:14A-1 et seq.) and the "municipal and county utilities authorities law" (C.40:14B-1 et seq.) would be approximately \$2,047,821. Assuming the average total connection fee would be approximately \$5,500 and the average number of affordable housing units being built or demolished or refurbished by public housing authorities and non-profit organizations would be 745 units per year, the \$2,047,821 was arrived at by multiplying the 745 units by 50 percent of the \$5,550 average connection fee, or \$2,750 ($\$2,750 \times 745 = \$2,047,821$). The number of affordable housing units was estimated by multiplying the current number of new COAH units under

construction, which is 3,047, by 2 percent (representing OLS's estimate of the percentage of new construction by non-profit organizations and public housing authorities) to arrive at 61 new units (3,047 X 2 percent = 61) and then adding this amount to the annual average number of units that have been rehabilitated since COAH's inception, which is 684 (12,307 total COAH rehabilitated units since inception divided by 18 years) for a grand total annual average of 745 units. OLS requested an estimate from the Department of Community Affairs regarding the number of affordable housing units being built or rehabilitated on average by public housing authorities and non-profit organizations, but this information was not provided before the writing of this fiscal estimate. OLS wishes to note that the loss of foregone revenue to the local utility authority does not constitute an unfunded mandate since the local utility may increase the connection fee in order to recoup the lost revenue resulting from the bill's 50 percent discount connecting fee provision without placing this financial burden on the local property taxpayers.

Section: *Local Government*

Analyst: *Pedro Carrasquillo*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1343

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 21, 2004

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 1343.

As amended by the committee, this bill would require various entities to charge discounted sewer and water connection fees to public housing authorities and non-profit organizations building affordable housing projects. In particular, the bill, as amended, would affect: regional, county and municipal sewerage authorities created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); regional, county and municipal utility authorities created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); and the Passaic Valley Sewerage Commissioners, continued pursuant to R.S.58:14-1 et seq.

The bill, as amended, would require those entities to give public housing authorities and non-profit organizations building affordable housing projects a 50 percent discount on the connection fee or tapping fee assessed for connection to the water system or sewerage system.

In addition, the bill, as amended, would require sewerage authorities, utilities authorities and the Passaic Valley Sewerage Commissioners to provide credit when calculating the connection fee or tapping fee to public housing authorities and non-profit organizations building affordable housing projects for those existing units previously connected to a water or sewerage system if the units were demolished or refurbished to allow for new affordable housing units. Connection fees to public housing authorities and non-profit organizations building affordable housing projects that consist of replacement units for demolished or refurbished units, and for which connection or tapping fees were previously assessed and paid, will be computed by charging the public housing authorities and non-profit organizations the lesser of: (1) the reduced fee (50%); or (2) a fee based on the connection charges for market rate developments minus the amount of any connection or tapping fees previously paid for the housing units being replaced.

The committee amended the bill for the following reasons:

- * to insert a new section 6 to require the Passaic Valley Sewerage Commissioners to establish a 50% reduction in connection fees to the Passaic Valley Sewerage System for public housing authorities and to non-profit organizations building affordable housing projects;
- * to make technical corrections at sections 2 and 5 to make the bill read better
- * to update the underlying section of law being amended in section 3 to accurately reflect current law after adoption of P.L.2003, c.278.