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P.L. 2007, CHAPTER 138, *approved August 9, 2007*
Assembly, No. 4344

1 **AN ACT** concerning environmental infrastructure projects, and
2 amending and supplementing P.L.1985, c.334.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read
8 as follows:

9 5. Except as otherwise limited by the provisions of P.L.1985,
10 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
11 al.), the trust may:

12 a. Make and alter bylaws for its organization and internal
13 management and, subject to agreements with holders of its bonds,
14 notes or other obligations, make rules and regulations with respect
15 to its operations, properties and facilities;

16 b. Adopt an official seal and alter it;

17 c. Sue and be sued;

18 d. Make and enter into all contracts, leases and agreements
19 necessary or incidental to the performance of its duties and the
20 exercise of its powers under the provisions of P.L.1985, c.334
21 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and
22 subject to any agreement with the holders of the trust's bonds, notes
23 or other obligations, consent to any modification, amendment or
24 revision of any contract, lease or agreement to which the trust is a
25 party;

26 e. Enter into agreements or other transactions with and accept,
27 subject to the provisions of section 23 of P.L.1985, c.334
28 (C.58:11B-23), grants, appropriations and the cooperation of the
29 State, or any State agency, in furtherance of the purposes of
30 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-
31 10.1 et al.), and do anything necessary in order to avail itself of that
32 aid and cooperation;

33 f. Receive and accept aid or contributions from any source of
34 money, property, labor or other things of value, to be held, used and
35 applied to carry out the purposes of P.L.1985, c.334 (C.58:11B-1 et
36 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), subject to the
37 conditions upon which that aid and those contributions may be
38 made, including, but not limited to, gifts or grants from any
39 department or agency of the State, or any State agency, for any
40 purpose consistent with the provisions of P.L.1985, c.334
41 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.),
42 subject to the provisions of section 23 of P.L.1985, c.334
43 (C.58:11B-23);

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

Matter underlined thus is new matter.

- 1 g. Acquire, own, hold, construct, improve, rehabilitate,
2 renovate, operate, maintain, sell, assign, exchange, lease, mortgage
3 or otherwise dispose of real and personal property, or any interest
4 therein, in the exercise of its powers and the performance of its
5 duties under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.)
6 or P.L.1997, c.224 (C.58:11B-10.1 et al.);
- 7 h. Appoint and employ an executive director and any other
8 officers or employees as it may require for the performance of its
9 duties, without regard to the provisions of Title 11A of the New
10 Jersey Statutes;
- 11 i. Borrow money and issue bonds, notes and other obligations,
12 and secure the same, and provide for the rights of the holders
13 thereof as provided in the provisions of P.L.1985, c.334 (C.58:11B-
14 1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);
- 15 j. Subject to any agreement with holders of its bonds, notes or
16 other obligations, invest moneys of the trust not required for
17 immediate use, including proceeds from the sale of any bonds, notes
18 or other obligations, in any obligations, securities and other
19 investments in accordance with the rules and regulations of the
20 State Investment Council or as may otherwise be approved by the
21 Director of the Division of Investment in the Department of the
22 Treasury upon a finding that such investments are consistent with
23 the corporate purposes of the trust;
- 24 k. Procure insurance to secure the payment of its bonds, notes
25 or other obligations or the payment of any guarantees or loans made
26 by it in accordance with the provisions of P.L.1985, c.334
27 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), or
28 against any loss in connection with its property and other assets and
29 operations, in any amounts and from any insurers as it deems
30 desirable;
- 31 l. Engage the services of attorneys, accountants, engineers, and
32 financial experts and any other advisors, consultants, experts and
33 agents as may be necessary in its judgment and fix their
34 compensation;
- 35 m. (1) Make and contract to make loans to local government
36 units, or to a local government unit on behalf of another local
37 government unit, to finance the cost of wastewater treatment system
38 projects or water supply projects and acquire and contract to acquire
39 notes, bonds or other obligations issued or to be issued by any local
40 government units to evidence the loans, all in accordance with the
41 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
42 c.224 (C.58:11B-10.1 et al.);
- 43 (2) Make and contract to make loans to public water utilities, or
44 to any other person or local government unit on behalf of a public
45 water utility, to finance the cost of water supply projects in
46 accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et
47 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

1 (3) Make and contract to make loans to private persons other
2 than local government units, or to any other person or local
3 government unit on behalf of a private person, to finance the cost of
4 stormwater management systems in accordance with the provisions
5 of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224
6 (C.58:11B-10.1 et al.);

7 n. Subject to any agreement with holders of its bonds, notes or
8 other obligations, purchase bonds, notes and other obligations of the
9 trust and hold the same for resale or provide for the cancellation
10 thereof, all in accordance with the provisions of P.L.1985, c.334
11 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

12 o. (1) Charge to and collect from local government units,
13 private persons or public water utilities any fees and charges in
14 connection with the trust's loans, guarantees or other services,
15 including, but not limited to, fees and charges sufficient to
16 reimburse the trust for all reasonable costs necessarily incurred by it
17 in connection with its financings and the establishment and
18 maintenance of reserve or other funds, as the trust may determine to
19 be reasonable. The fees and charges shall be in accordance with a
20 uniform schedule published by the trust for the purpose of
21 providing actual cost reimbursement for the services rendered;

22 (2) Any fees and charges collected by the trust pursuant to this
23 subsection may be deposited and maintained in a special fund
24 separate from any other funds held by the trust pursuant to section
25 10 of P.L.1985, c.334 (C.58:11B-10) or section 23 of P.L.1997,
26 c.224 (C.58:11B-10.1 **[et al.]**), including the Emergency Loan Fund
27 established pursuant to section 4 of P.L. , c. (C.)(pending
28 before the Legislature as this bill), and shall be available for any
29 corporate purposes of the trust, including the Emergency Financing
30 Program pursuant to section 4 of P.L. , c. (C.)(pending
31 before the Legislature as this bill);

32 p. Subject to any agreement with holders of its bonds, notes or
33 other obligations, obtain as security or to provide liquidity for
34 payment of all or any part of the principal of and interest and
35 premium on the bonds, notes and other obligations of the trust or
36 for the purchase upon tender or otherwise of the bonds, notes or
37 other obligations, lines of credit, letters of credit and other security
38 agreements or instruments in any amounts and upon any terms as
39 the trust may determine, and pay any fees and expenses required in
40 connection therewith;

41 q. Provide to local government units any financial and credit
42 advice as these local government units may request;

43 r. Make payments to the State from any moneys of the trust
44 available therefor as may be required pursuant to any agreement
45 with the State or act appropriating moneys to the trust; and

46 s. Take any action necessary or convenient to the exercise of
47 the foregoing powers or reasonably implied therefrom.

48 (cf: P.L.2001, c.223, s.2)

1 2. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read
2 as follows:

3 6. a. Except as may be otherwise expressly provided in the
4 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
5 c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue
6 its bonds, notes or other obligations in any principal amounts as in
7 the judgment of the trust shall be necessary to provide sufficient
8 funds for any of its corporate purposes, including the payment,
9 funding or refunding of the principal of, or interest or redemption
10 premiums on, any bonds, notes or other obligations issued by it,
11 whether the bonds, notes or other obligations or the interest or
12 redemption premiums thereon to be funded or refunded have or
13 have not become due, the establishment or increase of reserves or
14 other funds to secure or to pay the bonds, notes or other obligations
15 or interest thereon and all other costs or expenses of the trust
16 incident to and necessary to carry out its corporate purposes and
17 powers.

18 b. Whether or not the bonds, notes or other obligations of the
19 trust are of a form and character as to be negotiable instruments
20 under the terms of Title 12A of the New Jersey Statutes, the bonds,
21 notes and other obligations are made negotiable instruments within
22 the meaning of and for the purposes of Title 12A of the New Jersey
23 Statutes, subject only to the provisions of the bonds, notes and other
24 obligations for registration.

25 c. Bonds, notes or other obligations of the trust shall be
26 authorized by a resolution or resolutions of the trust and may be
27 issued in one or more series and shall bear any date or dates, mature
28 at any time or times, bear interest at any rate or rates of interest per
29 annum, be in any denomination or denominations, be in any form,
30 either coupon, registered or book entry, carry any conversion or
31 registration privileges, have any rank or priority, be executed in any
32 manner, be payable in any coin or currency of the United States
33 which at the time of payment is legal tender for the payment of
34 public and private debts, at any place or places within or without
35 the State, and be subject to any terms of redemption by the trust or
36 the holders thereof, with or without premium, as the resolution or
37 resolutions may provide. A resolution of the trust authorizing the
38 issuance of bonds, notes or other obligations may provide that the
39 bonds, notes or other obligations be secured by a trust indenture
40 between the trust and a trustee, vesting in the trustee any property,
41 rights, powers and duties in trust consistent with the provisions of
42 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-
43 10.1 et al.) as the trust may determine.

44 d. Bonds, notes or other obligations of the trust may be sold at
45 any price or prices and in any manner as the trust may determine.
46 Each bond, note or other obligation shall mature and be paid not
47 later than 20 years from the effective date thereof, or the certified

1 useful life of the project or projects to be financed by the bonds,
2 whichever is less.

3 All bonds of the trust shall be sold at such price or prices and in
4 such manner as the trust shall determine, after notice of sale, a
5 summary of which shall be published at least once in at least three
6 newspapers published in the State of New Jersey and at least once
7 in a publication carrying municipal bond notices and devoted
8 primarily to financial news published in New Jersey or the city of
9 New York, the first summary notice to be at least five days prior to
10 the day of bidding. The notice of sale may contain a provision to the
11 effect that any or all bids made in pursuance thereof may be
12 rejected. In the event of such rejection or of failure to receive any
13 acceptable bid, the trust, at any time within 60 days from the date of
14 such advertised sale, may sell such bonds at private sale upon terms
15 not less favorable to the State than the terms offered by any rejected
16 bid. The trust may sell all or part of the bonds of any series as
17 issued to any State fund or to the federal government or any agency
18 thereof, at private sale, without advertisement.

19 e. Bonds, notes or other obligations of the trust may be issued
20 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
21 P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the
22 consent of any department, division, board, bureau or agency of the
23 State, and without any other proceedings or the happening of any
24 other conditions or things, other than those consents, proceedings,
25 conditions or things which are specifically required by P.L.1985,
26 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
27 al.).

28 f. Bonds, notes or other obligations of the trust issued under
29 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
30 c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the
31 State or of any political subdivision thereof other than the trust and
32 shall not create or constitute any indebtedness, liability or
33 obligation of the State or any political subdivision, but all these
34 bonds, notes and other obligations, unless funded or refunded by
35 bonds, notes or other obligations, shall be payable solely from
36 revenues or funds pledged or available for their payment as
37 authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
38 c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall
39 contain on its face a statement to the effect that the trust is obligated
40 to pay the principal thereof or the interest thereon only from its
41 revenues, receipts or funds pledged or available for their payment
42 as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
43 c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any
44 political subdivision thereof, is obligated to pay the principal or
45 interest and that neither the faith and credit nor the taxing power of
46 the State, or any political subdivision thereof, is pledged to the
47 payment of the principal of or the interest on the bonds, notes or
48 other obligations.

1 g. The aggregate principal amount of bonds, notes or other
2 obligations, including subordinated indebtedness of the trust, shall
3 not exceed ~~【\$2,400,000,000】~~ \$2,600,000,000. In computing the
4 foregoing limitations there shall be excluded all the bonds, notes or
5 other obligations, including subordinated indebtedness of the trust,
6 which shall be issued for refunding purposes, whenever the
7 refunding shall be determined to result in a savings.

8 (1) Upon the decision by the trust to issue refunding bonds,
9 except for current refunding, and prior to the sale of those bonds,
10 the trust shall transmit to the Joint Budget Oversight Committee, or
11 its successor, a report that a decision has been made, reciting the
12 basis on which the decision was made, including an estimate of the
13 debt service savings to be achieved and the calculations upon which
14 the trust relied when making the decision to issue refunding bonds.
15 The report shall also disclose the intent of the trust to issue and sell
16 the refunding bonds at public or private sale and the reasons
17 therefor.

18 (2) The Joint Budget Oversight Committee or its successor shall
19 have the authority to approve or disapprove the sales of refunding
20 bonds as included in each report submitted in accordance with
21 paragraph (1) of this subsection. The committee shall notify the
22 trust in writing of the approval or disapproval ~~【as expeditiously as~~
23 possible】 within 30 days of receipt of the report. Should the
24 committee not act within 30 days of receipt of the report, the trust
25 may proceed with the sale of the refunding bonds, provided that the
26 sale of refunding bonds shall realize not less than 3.00% net present
27 value debt service savings.

28 (3) No refunding bonds shall be issued unless the report has
29 been submitted to and approved by the Joint Budget Oversight
30 Committee or its successor as set forth in paragraphs (1) and (2) of
31 this subsection.

32 (4) Within 30 days after the sale of the refunding bonds, the
33 trust shall notify the committee of the result of that sale, including
34 the prices and terms, conditions and regulations concerning the
35 refunding bonds, the actual amount of debt service savings to be
36 realized as a result of the sale of refunding bonds, and the intended
37 use of the proceeds from the sale of those bonds.

38 (5) The committee shall review all information and reports
39 submitted in accordance with this subsection and may, on its own
40 initiative, make observations to the trust, or to the Legislature, or
41 both, as it deems appropriate.

42 h. Each issue of bonds, notes or other obligations of the trust
43 may, if it is determined by the trust, be general obligations thereof
44 payable out of any revenues, receipts or funds of the trust, or
45 special obligations thereof payable out of particular revenues,
46 receipts or funds, subject only to any agreements with the holders of
47 bonds, notes or other obligations, and may be secured by one or
48 more of the following:

1 (1) Pledge of revenues and other receipts to be derived from the
2 payment of the interest on and principal of notes, bonds or other
3 obligations issued to the trust by one or more local government
4 units, and any other payment made to the trust pursuant to
5 agreements with any local government units, or a pledge or
6 assignment of any notes, bonds or other obligations of any local
7 government unit and the rights and interest of the trust therein;

8 (2) Pledge of rentals, receipts and other revenues to be derived
9 from leases or other contractual arrangements with any person or
10 entity, public or private, including one or more local government
11 units, or a pledge or assignment of those leases or other contractual
12 arrangements and the rights and interest of the trust therein;

13 (3) Pledge of all moneys, funds, accounts, securities and other
14 funds, including the proceeds of the bonds, notes or other
15 obligations;

16 (4) Pledge of the receipts to be derived from the payments of
17 State aid, payable to the trust pursuant to section 12 of P.L.1985,
18 c.334 (C.58:11B-12);

19 (5) A mortgage on all or any part of the property, real or
20 personal, of the trust then owned or thereafter to be acquired, or a
21 pledge or assignment of mortgages made to the trust by any person
22 or entity, public or private, including one or more local government
23 units and the rights and interest of the trust therein.

24 i. The trust shall not issue any bonds, notes or other
25 obligations, or otherwise incur any additional indebtedness, on or
26 after November 5, ~~2026~~ 2027.

27 j. (Deleted by amendment, P.L.1996, c.88).
28 (cf: P.L.2006, c.69, s.1)
29

30 3. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read
31 as follows:

32 9. a. (1) The trust may make and contract to make loans to local
33 government units, or to a local government unit on behalf of
34 another local government unit, in accordance with and subject to the
35 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
36 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
37 treatment system project or water supply project, which the local
38 government unit may lawfully undertake or acquire and for which
39 the local government unit is authorized by law to borrow money.

40 (2) The trust may make and contract to make loans to public
41 water utilities, or to any other person or local government unit on
42 behalf of a public water utility, in accordance with and subject to
43 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
44 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
45 project, which the public water utility may lawfully undertake or
46 acquire.

47 (3) The trust may make and contract to make loans to private
48 persons other than local government units, or to any other person or

1 local government unit on behalf of a private person, in accordance
2 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1
3 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
4 of stormwater management systems.

5 The loans may be made subject to those terms and conditions as
6 the trust shall determine to be consistent with the purposes thereof.
7 Each loan by the trust and the terms and conditions thereof shall be
8 subject to approval by the State Treasurer, and the trust shall make
9 available to the State Treasurer all information, statistical data and
10 reports of independent consultants or experts as the State Treasurer
11 shall deem necessary in order to evaluate the loan. Each loan to a
12 local government unit, public water utility or any other person shall
13 be evidenced by notes, bonds or other obligations thereof issued to
14 the trust. In the case of each local government unit, notes and
15 bonds to be issued to the trust by the local government unit (1) shall
16 be authorized and issued as provided by law for the issuance of
17 notes and bonds by the local government unit, (2) shall be approved
18 by the Local Finance Board in the Division of Local Government
19 Services in the Department of Community Affairs, and (3)
20 notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28
21 and N.J.S.40A:2-29 or any other provisions of law to the contrary,
22 may be sold at private sale to the trust at any price, whether or not
23 less than par value, and shall be subject to redemption prior to
24 maturity at any times and at any prices as the trust and local
25 government units may agree. Each loan to a local government unit,
26 public water utility or any other person and the notes, bonds or
27 other obligations thereby issued shall bear interest at a rate or rates
28 per annum as the trust and the local government unit, public water
29 utility or any other person, as the case may be, may agree.

30 b. The trust is authorized to guarantee or contract to guarantee
31 the payment of all or any portion of the principal and interest on
32 bonds, notes or other obligations issued by a local government unit
33 to finance the cost of any wastewater treatment system project or
34 water supply project, which the local government unit may lawfully
35 undertake or acquire and for which the local government unit is
36 authorized by law to borrow money, and the guarantee shall
37 constitute an obligation of the trust for the purposes of P.L.1985,
38 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
39 al.). Each guarantee by the trust and the terms and conditions
40 thereof shall be subject to approval by the State Treasurer, and the
41 trust shall make available to the State Treasurer all information,
42 statistical data and reports of independent consultants or experts as
43 the State Treasurer shall deem necessary in order to evaluate the
44 guarantee.

45 c. The trust shall not make or contract to make any loans or
46 guarantees to local government units, public water utilities or any
47 other person, or otherwise incur any additional indebtedness, on or
48 after November 5, **[2026]** 2027.

1 d. Notwithstanding any provision of P.L.1985, c.334
2 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to
3 the contrary, the trust may receive funds from any source or issue
4 its bonds, notes or other obligations in any principal amounts as in
5 the judgment of the trust shall be necessary to provide sufficient
6 funds to finance or refinance short-term or temporary loans to local
7 government units, public water utilities or private persons for any
8 wastewater treatment system projects included on the project
9 priority list for the ensuing fiscal year and eligible for approval
10 pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water
11 supply projects included on the project priority list for the ensuing
12 fiscal year and eligible for approval pursuant to section 24 of
13 P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to
14 any other provisions of P.L.1985, c.334 or P.L.1997, c.224,
15 including, without limitation, any administrative or legislative
16 approvals.

17 The trust shall create and establish a special fund (hereinafter
18 referred to as the "Interim Financing Program Fund") for the short-
19 term or temporary loan financing or refinancing program
20 (hereinafter referred to as the "Interim Financing Program").

21 Any short-term or temporary loans made by the trust pursuant to
22 this subsection may only be made in advance of the anticipated
23 loans the trust may make and contract to make under the provisions
24 of subsection a. of this section to be financed or refinanced through
25 the issuance of bonds, notes or other obligations of the trust
26 authorized under section 6 of P.L.1985, c.334 (C.58:11B-6). The
27 trust may make short-term or temporary loans pursuant to the
28 Interim Financing Program to any one or more of the project
29 sponsors, for the respective projects thereof, identified in the
30 interim financing project priority list (hereinafter referred to as the
31 "Interim Financing Program Eligibility List") in the form provided
32 to the Legislature by the Commissioner of Environmental
33 Protection.

34 The Interim Financing Program Eligibility List shall be
35 submitted to the Legislature on or before June 30 of each year on a
36 day when both Houses are meeting. The President of the Senate
37 and the Speaker of the General Assembly shall cause the date of
38 submission to be entered upon the Senate Journal and the Minutes
39 of the General Assembly, respectively. Any environmental
40 infrastructure project or the project sponsor thereof not identified in
41 the Interim Financing Program Eligibility List shall not be eligible
42 for a short-term or temporary loan from the Interim Financing
43 Program Fund.

44 (cf: P.L.2006, c.69, s.2)

45

46 4. (New section) a. The trust shall create and establish a special
47 emergency fund (hereinafter referred to as the "Emergency Loan
48 Fund") for the emergency short-term or temporary loan financing or

1 refinancing program (hereinafter referred to as the "Emergency
2 Financing Program").

3 The Emergency Loan Fund shall be credited with:

4 (1) moneys deposited in the fund as administrative fees received
5 by the trust pursuant to subsection o. of section 5 of P.L.1985, c.334
6 (C.58:11B-5);

7 (2) moneys received by the trust as repayment of the principal of
8 and the interest or premium on loans made from the fund;

9 (3) any interest earnings received on the moneys in the fund;
10 and

11 (4) such other moneys as the Legislature may appropriate to the
12 trust for deposit into the fund at any time to finance or refinance
13 emergency short-term or temporary loans pursuant to the
14 Emergency Financing Program.

15 b. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-
16 1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
17 the trust may make emergency short-term or temporary loans to (1)
18 local government units to finance or refinance wastewater treatment
19 system projects not included on the project priority list for the
20 ensuing fiscal year or eligible for approval pursuant to section 20 of
21 P.L.1985, c.334 (C.58:11B-20); or (2) public water utilities or
22 private persons to finance or refinance water supply projects not
23 included on the project priority list for the ensuing fiscal year or
24 eligible for approval pursuant to section 24 of P.L.1997, c.224
25 (C.58:11B-20.1), as applicable, whenever the Commissioner of
26 Environmental Protection has determined and certified, in writing,
27 that any such project constitutes an emergency project because of
28 an imminent threat to the environment or the public health, safety or
29 welfare caused by structural or mechanical failure, sabotage or act
30 of God, without regard to any other provisions of P.L.1985, c.334
31 or P.L.1997, c.224, including, without limitation, the provisions of
32 section 20 of P.L.1985, c.334 (C.58:11B-20), section 24 of
33 P.L.1997, c.224 (C.58:11B-20.1), the Interim Financing Program
34 Eligibility List pursuant to subsection d. of section 9 of P.L.1985,
35 c.334 (C.58:11B-9), or any administrative or legislative approvals.

36

37 5. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill makes certain technical changes to the procedures
43 governing the New Jersey Environmental Infrastructure Trust
44 Financing Program. These changes are necessary to permit the
45 2007 Financing Program to proceed as developed by the Trust.

46 The bill increases the Trust's statutory debt ceiling of \$2.4 billion
47 to \$2.6 billion. The statutory date after which the Trust may not

1 incur any additional indebtedness is extended by one calendar year
2 to November 5, 2027.

3 Currently, the Joint Budget Oversight Committee must approve
4 or disapprove the sale by the Trust of refunding bonds as proposed
5 in a report submitted to the committee. The committee must notify
6 the Trust in writing of the approval or disapproval as expeditiously
7 as possible.

8 The bill provides that within 30 days of receipt of such a report,
9 the Trust may proceed with the sale of the refunding bonds, if the
10 committee fails to act within that 30 day period, provided that the
11 sale of refunding bonds would realize not less than 3.00% net
12 present value debt service savings.

13 The bill also directs the Trust to establish a special "Emergency
14 Loan Fund" for an emergency short-term or temporary loan
15 financing or refinancing program to be known as the "Emergency
16 Financing Program." The Emergency Loan Fund would be credited
17 with moneys deposited in the fund as excess administrative fees
18 charged and collected from borrowers by the Trust under the
19 Financing Program.

20 The bill provides that the Trust may make emergency short-term
21 or temporary loans to local government units, public water utilities
22 or private persons to finance or refinance wastewater treatment
23 system projects or water supply projects that are not included on the
24 corresponding project priority list for the ensuing fiscal year or
25 otherwise eligible for approval under the Financing Program
26 whenever the Commissioner of Environmental Protection has
27 determined and certified, in writing, that any such project
28 constitutes "an emergency project because of an imminent threat to
29 the environment or the public health, safety or welfare caused by
30 structural or mechanical failure, sabotage or act of God." The
31 Emergency Financing Program would function without regard to
32 any other provision of the Trust's enabling laws, P.L.1985, c.334
33 and P.L.1997, c.224, or any other administrative or legislative
34 approvals.

35

36

37

38

39 _____
40 Makes certain changes to the New Jersey Environmental
Infrastructure Trust Financing Program.

ASSEMBLY, No. 4344

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 11, 2007

Sponsored by:

Assemblyman JIM WHELAN

District 2 (Atlantic)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Assemblyman CHARLES T. EPPS, JR.

District 31 (Hudson)

Co-Sponsored by:

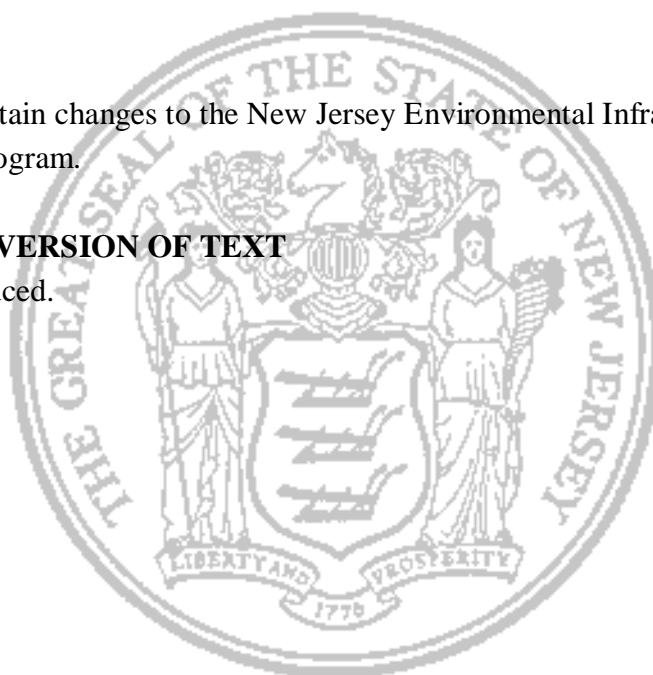
**Assemblymen Conaway, Schaer, Scalera, Gordon, Assemblywoman Voss,
Assemblymen Connors, Fisher, Albano, Moriarty, Chivukula, Senators
B.Smith and Sarlo**

SYNOPSIS

Makes certain changes to the New Jersey Environmental Infrastructure Trust Financing Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning environmental infrastructure projects, and
2 amending and supplementing P.L.1985, c.334.

3

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

6

7 1. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read
8 as follows:

9 5. Except as otherwise limited by the provisions of P.L.1985,
10 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
11 al.), the trust may:

12 a. Make and alter bylaws for its organization and internal
13 management and, subject to agreements with holders of its bonds,
14 notes or other obligations, make rules and regulations with respect
15 to its operations, properties and facilities;

16 b. Adopt an official seal and alter it;

17 c. Sue and be sued;

18 d. Make and enter into all contracts, leases and agreements
19 necessary or incidental to the performance of its duties and the
20 exercise of its powers under the provisions of P.L.1985, c.334
21 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and
22 subject to any agreement with the holders of the trust's bonds, notes
23 or other obligations, consent to any modification, amendment or
24 revision of any contract, lease or agreement to which the trust is a
25 party;

26 e. Enter into agreements or other transactions with and accept,
27 subject to the provisions of section 23 of P.L.1985, c.334
28 (C.58:11B-23), grants, appropriations and the cooperation of the
29 State, or any State agency, in furtherance of the purposes of
30 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-
31 10.1 et al.), and do anything necessary in order to avail itself of that
32 aid and cooperation;

33 f. Receive and accept aid or contributions from any source of
34 money, property, labor or other things of value, to be held, used and
35 applied to carry out the purposes of P.L.1985, c.334 (C.58:11B-1 et
36 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), subject to the
37 conditions upon which that aid and those contributions may be
38 made, including, but not limited to, gifts or grants from any
39 department or agency of the State, or any State agency, for any
40 purpose consistent with the provisions of P.L.1985, c.334
41 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.),
42 subject to the provisions of section 23 of P.L.1985, c.334
43 (C.58:11B-23);

44 g. Acquire, own, hold, construct, improve, rehabilitate,
45 renovate, operate, maintain, sell, assign, exchange, lease, mortgage

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

Matter underlined thus is new matter.

1 or otherwise dispose of real and personal property, or any interest
2 therein, in the exercise of its powers and the performance of its
3 duties under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.)
4 or P.L.1997, c.224 (C.58:11B-10.1 et al.);

5 h. Appoint and employ an executive director and any other
6 officers or employees as it may require for the performance of its
7 duties, without regard to the provisions of Title 11A of the New
8 Jersey Statutes;

9 i. Borrow money and issue bonds, notes and other obligations,
10 and secure the same, and provide for the rights of the holders
11 thereof as provided in the provisions of P.L.1985, c.334 (C.58:11B-
12 1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

13 j. Subject to any agreement with holders of its bonds, notes or
14 other obligations, invest moneys of the trust not required for
15 immediate use, including proceeds from the sale of any bonds, notes
16 or other obligations, in any obligations, securities and other
17 investments in accordance with the rules and regulations of the
18 State Investment Council or as may otherwise be approved by the
19 Director of the Division of Investment in the Department of the
20 Treasury upon a finding that such investments are consistent with
21 the corporate purposes of the trust;

22 k. Procure insurance to secure the payment of its bonds, notes
23 or other obligations or the payment of any guarantees or loans made
24 by it in accordance with the provisions of P.L.1985, c.334
25 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), or
26 against any loss in connection with its property and other assets and
27 operations, in any amounts and from any insurers as it deems
28 desirable;

29 l. Engage the services of attorneys, accountants, engineers, and
30 financial experts and any other advisors, consultants, experts and
31 agents as may be necessary in its judgment and fix their
32 compensation;

33 m. (1) Make and contract to make loans to local government
34 units, or to a local government unit on behalf of another local
35 government unit, to finance the cost of wastewater treatment system
36 projects or water supply projects and acquire and contract to acquire
37 notes, bonds or other obligations issued or to be issued by any local
38 government units to evidence the loans, all in accordance with the
39 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
40 c.224 (C.58:11B-10.1 et al.);

41 (2) Make and contract to make loans to public water utilities, or
42 to any other person or local government unit on behalf of a public
43 water utility, to finance the cost of water supply projects in
44 accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et
45 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

46 (3) Make and contract to make loans to private persons other
47 than local government units, or to any other person or local
48 government unit on behalf of a private person, to finance the cost of

1 stormwater management systems in accordance with the provisions
2 of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224
3 (C.58:11B-10.1 et al.);

4 n. Subject to any agreement with holders of its bonds, notes or
5 other obligations, purchase bonds, notes and other obligations of the
6 trust and hold the same for resale or provide for the cancellation
7 thereof, all in accordance with the provisions of P.L.1985, c.334
8 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

9 o. (1) Charge to and collect from local government units,
10 private persons or public water utilities any fees and charges in
11 connection with the trust's loans, guarantees or other services,
12 including, but not limited to, fees and charges sufficient to
13 reimburse the trust for all reasonable costs necessarily incurred by it
14 in connection with its financings and the establishment and
15 maintenance of reserve or other funds, as the trust may determine to
16 be reasonable. The fees and charges shall be in accordance with a
17 uniform schedule published by the trust for the purpose of
18 providing actual cost reimbursement for the services rendered;

19 (2) Any fees and charges collected by the trust pursuant to this
20 subsection may be deposited and maintained in a special fund
21 separate from any other funds held by the trust pursuant to section
22 10 of P.L.1985, c.334 (C.58:11B-10) or section 23 of P.L.1997,
23 c.224 (C.58:11B-10.1 **[et al.]**), including the Emergency Loan Fund
24 established pursuant to section 4 of P.L. , c. (C.)(pending
25 before the Legislature as this bill), and shall be available for any
26 corporate purposes of the trust, including the Emergency Financing
27 Program pursuant to section 4 of P.L. , c. (C.)(pending
28 before the Legislature as this bill);

29 p. Subject to any agreement with holders of its bonds, notes or
30 other obligations, obtain as security or to provide liquidity for
31 payment of all or any part of the principal of and interest and
32 premium on the bonds, notes and other obligations of the trust or
33 for the purchase upon tender or otherwise of the bonds, notes or
34 other obligations, lines of credit, letters of credit and other security
35 agreements or instruments in any amounts and upon any terms as
36 the trust may determine, and pay any fees and expenses required in
37 connection therewith;

38 q. Provide to local government units any financial and credit
39 advice as these local government units may request;

40 r. Make payments to the State from any moneys of the trust
41 available therefor as may be required pursuant to any agreement
42 with the State or act appropriating moneys to the trust; and

43 s. Take any action necessary or convenient to the exercise of
44 the foregoing powers or reasonably implied therefrom.

45 (cf: P.L.2001, c.223, s.2)

46

47 2. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read
48 as follows:

1 6. a. Except as may be otherwise expressly provided in the
2 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
3 c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue
4 its bonds, notes or other obligations in any principal amounts as in
5 the judgment of the trust shall be necessary to provide sufficient
6 funds for any of its corporate purposes, including the payment,
7 funding or refunding of the principal of, or interest or redemption
8 premiums on, any bonds, notes or other obligations issued by it,
9 whether the bonds, notes or other obligations or the interest or
10 redemption premiums thereon to be funded or refunded have or
11 have not become due, the establishment or increase of reserves or
12 other funds to secure or to pay the bonds, notes or other obligations
13 or interest thereon and all other costs or expenses of the trust
14 incident to and necessary to carry out its corporate purposes and
15 powers.

16 b. Whether or not the bonds, notes or other obligations of the
17 trust are of a form and character as to be negotiable instruments
18 under the terms of Title 12A of the New Jersey Statutes, the bonds,
19 notes and other obligations are made negotiable instruments within
20 the meaning of and for the purposes of Title 12A of the New Jersey
21 Statutes, subject only to the provisions of the bonds, notes and other
22 obligations for registration.

23 c. Bonds, notes or other obligations of the trust shall be
24 authorized by a resolution or resolutions of the trust and may be
25 issued in one or more series and shall bear any date or dates, mature
26 at any time or times, bear interest at any rate or rates of interest per
27 annum, be in any denomination or denominations, be in any form,
28 either coupon, registered or book entry, carry any conversion or
29 registration privileges, have any rank or priority, be executed in any
30 manner, be payable in any coin or currency of the United States
31 which at the time of payment is legal tender for the payment of
32 public and private debts, at any place or places within or without
33 the State, and be subject to any terms of redemption by the trust or
34 the holders thereof, with or without premium, as the resolution or
35 resolutions may provide. A resolution of the trust authorizing the
36 issuance of bonds, notes or other obligations may provide that the
37 bonds, notes or other obligations be secured by a trust indenture
38 between the trust and a trustee, vesting in the trustee any property,
39 rights, powers and duties in trust consistent with the provisions of
40 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-
41 10.1 et al.) as the trust may determine.

42 d. Bonds, notes or other obligations of the trust may be sold at
43 any price or prices and in any manner as the trust may determine.
44 Each bond, note or other obligation shall mature and be paid not
45 later than 20 years from the effective date thereof, or the certified
46 useful life of the project or projects to be financed by the bonds,
47 whichever is less.

1 All bonds of the trust shall be sold at such price or prices and in
2 such manner as the trust shall determine, after notice of sale, a
3 summary of which shall be published at least once in at least three
4 newspapers published in the State of New Jersey and at least once
5 in a publication carrying municipal bond notices and devoted
6 primarily to financial news published in New Jersey or the city of
7 New York, the first summary notice to be at least five days prior to
8 the day of bidding. The notice of sale may contain a provision to the
9 effect that any or all bids made in pursuance thereof may be
10 rejected. In the event of such rejection or of failure to receive any
11 acceptable bid, the trust, at any time within 60 days from the date of
12 such advertised sale, may sell such bonds at private sale upon terms
13 not less favorable to the State than the terms offered by any rejected
14 bid. The trust may sell all or part of the bonds of any series as
15 issued to any State fund or to the federal government or any agency
16 thereof, at private sale, without advertisement.

17 e. Bonds, notes or other obligations of the trust may be issued
18 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
19 P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the
20 consent of any department, division, board, bureau or agency of the
21 State, and without any other proceedings or the happening of any
22 other conditions or things, other than those consents, proceedings,
23 conditions or things which are specifically required by P.L.1985,
24 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
25 al.).

26 f. Bonds, notes or other obligations of the trust issued under
27 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
28 c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the
29 State or of any political subdivision thereof other than the trust and
30 shall not create or constitute any indebtedness, liability or
31 obligation of the State or any political subdivision, but all these
32 bonds, notes and other obligations, unless funded or refunded by
33 bonds, notes or other obligations, shall be payable solely from
34 revenues or funds pledged or available for their payment as
35 authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
36 c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall
37 contain on its face a statement to the effect that the trust is obligated
38 to pay the principal thereof or the interest thereon only from its
39 revenues, receipts or funds pledged or available for their payment
40 as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
41 c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any
42 political subdivision thereof, is obligated to pay the principal or
43 interest and that neither the faith and credit nor the taxing power of
44 the State, or any political subdivision thereof, is pledged to the
45 payment of the principal of or the interest on the bonds, notes or
46 other obligations.

47 g. The aggregate principal amount of bonds, notes or other
48 obligations, including subordinated indebtedness of the trust, shall

1 not exceed ~~【\$2,400,000,000】~~ \$2,600,000,000. In computing the
2 foregoing limitations there shall be excluded all the bonds, notes or
3 other obligations, including subordinated indebtedness of the trust,
4 which shall be issued for refunding purposes, whenever the
5 refunding shall be determined to result in a savings.

6 (1) Upon the decision by the trust to issue refunding bonds,
7 except for current refunding, and prior to the sale of those bonds,
8 the trust shall transmit to the Joint Budget Oversight Committee, or
9 its successor, a report that a decision has been made, reciting the
10 basis on which the decision was made, including an estimate of the
11 debt service savings to be achieved and the calculations upon which
12 the trust relied when making the decision to issue refunding bonds.
13 The report shall also disclose the intent of the trust to issue and sell
14 the refunding bonds at public or private sale and the reasons
15 therefor.

16 (2) The Joint Budget Oversight Committee or its successor shall
17 have the authority to approve or disapprove the sales of refunding
18 bonds as included in each report submitted in accordance with
19 paragraph (1) of this subsection. The committee shall notify the
20 trust in writing of the approval or disapproval ~~【as expeditiously as~~
21 possible】 within 30 days of receipt of the report. Should the
22 committee not act within 30 days of receipt of the report, the trust
23 may proceed with the sale of the refunding bonds, provided that the
24 sale of refunding bonds shall realize not less than 3.00% net present
25 value debt service savings.

26 (3) No refunding bonds shall be issued unless the report has
27 been submitted to and approved by the Joint Budget Oversight
28 Committee or its successor as set forth in paragraphs (1) and (2) of
29 this subsection.

30 (4) Within 30 days after the sale of the refunding bonds, the
31 trust shall notify the committee of the result of that sale, including
32 the prices and terms, conditions and regulations concerning the
33 refunding bonds, the actual amount of debt service savings to be
34 realized as a result of the sale of refunding bonds, and the intended
35 use of the proceeds from the sale of those bonds.

36 (5) The committee shall review all information and reports
37 submitted in accordance with this subsection and may, on its own
38 initiative, make observations to the trust, or to the Legislature, or
39 both, as it deems appropriate.

40 h. Each issue of bonds, notes or other obligations of the trust
41 may, if it is determined by the trust, be general obligations thereof
42 payable out of any revenues, receipts or funds of the trust, or
43 special obligations thereof payable out of particular revenues,
44 receipts or funds, subject only to any agreements with the holders of
45 bonds, notes or other obligations, and may be secured by one or
46 more of the following:

47 (1) Pledge of revenues and other receipts to be derived from the
48 payment of the interest on and principal of notes, bonds or other

1 obligations issued to the trust by one or more local government
2 units, and any other payment made to the trust pursuant to
3 agreements with any local government units, or a pledge or
4 assignment of any notes, bonds or other obligations of any local
5 government unit and the rights and interest of the trust therein;

6 (2) Pledge of rentals, receipts and other revenues to be derived
7 from leases or other contractual arrangements with any person or
8 entity, public or private, including one or more local government
9 units, or a pledge or assignment of those leases or other contractual
10 arrangements and the rights and interest of the trust therein;

11 (3) Pledge of all moneys, funds, accounts, securities and other
12 funds, including the proceeds of the bonds, notes or other
13 obligations;

14 (4) Pledge of the receipts to be derived from the payments of
15 State aid, payable to the trust pursuant to section 12 of P.L.1985,
16 c.334 (C.58:11B-12);

17 (5) A mortgage on all or any part of the property, real or
18 personal, of the trust then owned or thereafter to be acquired, or a
19 pledge or assignment of mortgages made to the trust by any person
20 or entity, public or private, including one or more local government
21 units and the rights and interest of the trust therein.

22 i. The trust shall not issue any bonds, notes or other
23 obligations, or otherwise incur any additional indebtedness, on or
24 after November 5, **[2026]** 2027.

25 j. (Deleted by amendment, P.L.1996, c.88).
26 (cf: P.L.2006, c.69, s.1)

27
28 3. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read
29 as follows:

30 9. a. (1) The trust may make and contract to make loans to local
31 government units, or to a local government unit on behalf of
32 another local government unit, in accordance with and subject to the
33 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
34 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
35 treatment system project or water supply project, which the local
36 government unit may lawfully undertake or acquire and for which
37 the local government unit is authorized by law to borrow money.

38 (2) The trust may make and contract to make loans to public
39 water utilities, or to any other person or local government unit on
40 behalf of a public water utility, in accordance with and subject to
41 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
42 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
43 project, which the public water utility may lawfully undertake or
44 acquire.

45 (3) The trust may make and contract to make loans to private
46 persons other than local government units, or to any other person or
47 local government unit on behalf of a private person, in accordance
48 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1

1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
2 of stormwater management systems.

3 The loans may be made subject to those terms and conditions as
4 the trust shall determine to be consistent with the purposes thereof.
5 Each loan by the trust and the terms and conditions thereof shall be
6 subject to approval by the State Treasurer, and the trust shall make
7 available to the State Treasurer all information, statistical data and
8 reports of independent consultants or experts as the State Treasurer
9 shall deem necessary in order to evaluate the loan. Each loan to a
10 local government unit, public water utility or any other person shall
11 be evidenced by notes, bonds or other obligations thereof issued to
12 the trust. In the case of each local government unit, notes and
13 bonds to be issued to the trust by the local government unit (1) shall
14 be authorized and issued as provided by law for the issuance of
15 notes and bonds by the local government unit, (2) shall be approved
16 by the Local Finance Board in the Division of Local Government
17 Services in the Department of Community Affairs, and (3)
18 notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28
19 and N.J.S.40A:2-29 or any other provisions of law to the contrary,
20 may be sold at private sale to the trust at any price, whether or not
21 less than par value, and shall be subject to redemption prior to
22 maturity at any times and at any prices as the trust and local
23 government units may agree. Each loan to a local government unit,
24 public water utility or any other person and the notes, bonds or
25 other obligations thereby issued shall bear interest at a rate or rates
26 per annum as the trust and the local government unit, public water
27 utility or any other person, as the case may be, may agree.

28 b. The trust is authorized to guarantee or contract to guarantee
29 the payment of all or any portion of the principal and interest on
30 bonds, notes or other obligations issued by a local government unit
31 to finance the cost of any wastewater treatment system project or
32 water supply project, which the local government unit may lawfully
33 undertake or acquire and for which the local government unit is
34 authorized by law to borrow money, and the guarantee shall
35 constitute an obligation of the trust for the purposes of P.L.1985,
36 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
37 al.). Each guarantee by the trust and the terms and conditions
38 thereof shall be subject to approval by the State Treasurer, and the
39 trust shall make available to the State Treasurer all information,
40 statistical data and reports of independent consultants or experts as
41 the State Treasurer shall deem necessary in order to evaluate the
42 guarantee.

43 c. The trust shall not make or contract to make any loans or
44 guarantees to local government units, public water utilities or any
45 other person, or otherwise incur any additional indebtedness, on or
46 after November 5, **[2026]** 2027.

47 d. Notwithstanding any provision of P.L.1985, c.334
48 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to

1 the contrary, the trust may receive funds from any source or issue
2 its bonds, notes or other obligations in any principal amounts as in
3 the judgment of the trust shall be necessary to provide sufficient
4 funds to finance or refinance short-term or temporary loans to local
5 government units, public water utilities or private persons for any
6 wastewater treatment system projects included on the project
7 priority list for the ensuing fiscal year and eligible for approval
8 pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water
9 supply projects included on the project priority list for the ensuing
10 fiscal year and eligible for approval pursuant to section 24 of
11 P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to
12 any other provisions of P.L.1985, c.334 or P.L.1997, c.224,
13 including, without limitation, any administrative or legislative
14 approvals.

15 The trust shall create and establish a special fund (hereinafter
16 referred to as the "Interim Financing Program Fund") for the short-
17 term or temporary loan financing or refinancing program
18 (hereinafter referred to as the "Interim Financing Program").

19 Any short-term or temporary loans made by the trust pursuant to
20 this subsection may only be made in advance of the anticipated
21 loans the trust may make and contract to make under the provisions
22 of subsection a. of this section to be financed or refinanced through
23 the issuance of bonds, notes or other obligations of the trust
24 authorized under section 6 of P.L.1985, c.334 (C.58:11B-6). The
25 trust may make short-term or temporary loans pursuant to the
26 Interim Financing Program to any one or more of the project
27 sponsors, for the respective projects thereof, identified in the
28 interim financing project priority list (hereinafter referred to as the
29 "Interim Financing Program Eligibility List") in the form provided
30 to the Legislature by the Commissioner of Environmental
31 Protection.

32 The Interim Financing Program Eligibility List shall be
33 submitted to the Legislature on or before June 30 of each year on a
34 day when both Houses are meeting. The President of the Senate
35 and the Speaker of the General Assembly shall cause the date of
36 submission to be entered upon the Senate Journal and the Minutes
37 of the General Assembly, respectively. Any environmental
38 infrastructure project or the project sponsor thereof not identified in
39 the Interim Financing Program Eligibility List shall not be eligible
40 for a short-term or temporary loan from the Interim Financing
41 Program Fund.

42 (cf: P.L.2006, c.69, s.2)

43
44 4. (New section) a. The trust shall create and establish a special
45 emergency fund (hereinafter referred to as the "Emergency Loan
46 Fund") for the emergency short-term or temporary loan financing or
47 refinancing program (hereinafter referred to as the "Emergency
48 Financing Program").

1 The Emergency Loan Fund shall be credited with:

2 (1) moneys deposited in the fund as administrative fees received
3 by the trust pursuant to subsection o. of section 5 of P.L.1985, c.334
4 (C.58:11B-5);

5 (2) moneys received by the trust as repayment of the principal of
6 and the interest or premium on loans made from the fund;

7 (3) any interest earnings received on the moneys in the fund;
8 and

9 (4) such other moneys as the Legislature may appropriate to the
10 trust for deposit into the fund at any time to finance or refinance
11 emergency short-term or temporary loans pursuant to the
12 Emergency Financing Program.

13 b. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-
14 1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
15 the trust may make emergency short-term or temporary loans to (1)
16 local government units to finance or refinance wastewater treatment
17 system projects not included on the project priority list for the
18 ensuing fiscal year or eligible for approval pursuant to section 20 of
19 P.L.1985, c.334 (C.58:11B-20); or (2) public water utilities or
20 private persons to finance or refinance water supply projects not
21 included on the project priority list for the ensuing fiscal year or
22 eligible for approval pursuant to section 24 of P.L.1997, c.224
23 (C.58:11B-20.1), as applicable, whenever the Commissioner of
24 Environmental Protection has determined and certified, in writing,
25 that any such project constitutes an emergency project because of
26 an imminent threat to the environment or the public health, safety or
27 welfare caused by structural or mechanical failure, sabotage or act
28 of God, without regard to any other provisions of P.L.1985, c.334
29 or P.L.1997, c.224, including, without limitation, the provisions of
30 section 20 of P.L.1985, c.334 (C.58:11B-20), section 24 of
31 P.L.1997, c.224 (C.58:11B-20.1), the Interim Financing Program
32 Eligibility List pursuant to subsection d. of section 9 of P.L.1985,
33 c.334 (C.58:11B-9), or any administrative or legislative approvals.

34

35 5. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill makes certain technical changes to the procedures
41 governing the New Jersey Environmental Infrastructure Trust
42 Financing Program. These changes are necessary to permit the
43 2007 Financing Program to proceed as developed by the Trust.

44 The bill increases the Trust's statutory debt ceiling of \$2.4 billion
45 to \$2.6 billion. The statutory date after which the Trust may not
46 incur any additional indebtedness is extended by one calendar year
47 to November 5, 2027.

1 Currently, the Joint Budget Oversight Committee must approve
2 or disapprove the sale by the Trust of refunding bonds as proposed
3 in a report submitted to the committee. The committee must notify
4 the Trust in writing of the approval or disapproval as expeditiously
5 as possible.

6 The bill provides that within 30 days of receipt of such a report,
7 the Trust may proceed with the sale of the refunding bonds, if the
8 committee fails to act within that 30 day period, provided that the
9 sale of refunding bonds would realize not less than 3.00% net
10 present value debt service savings.

11 The bill also directs the Trust to establish a special "Emergency
12 Loan Fund" for an emergency short-term or temporary loan
13 financing or refinancing program to be known as the "Emergency
14 Financing Program." The Emergency Loan Fund would be credited
15 with moneys deposited in the fund as excess administrative fees
16 charged and collected from borrowers by the Trust under the
17 Financing Program.

18 The bill provides that the Trust may make emergency short-term
19 or temporary loans to local government units, public water utilities
20 or private persons to finance or refinance wastewater treatment
21 system projects or water supply projects that are not included on the
22 corresponding project priority list for the ensuing fiscal year or
23 otherwise eligible for approval under the Financing Program
24 whenever the Commissioner of Environmental Protection has
25 determined and certified, in writing, that any such project
26 constitutes "an emergency project because of an imminent threat to
27 the environment or the public health, safety or welfare caused by
28 structural or mechanical failure, sabotage or act of God." The
29 Emergency Financing Program would function without regard to
30 any other provision of the Trust's enabling laws, P.L.1985, c.334
31 and P.L.1997, c.224, or any other administrative or legislative
32 approvals.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4344

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Assembly Appropriations Committee reports favorably on Assembly Bill No. 4344.

The bill makes certain technical changes to the procedures governing the New Jersey Environmental Infrastructure Trust Financing Program. These changes are necessary to permit the 2007 Financing Program to proceed as developed by the Trust.

The bill increases the Trust's statutory debt ceiling of \$2.4 billion to \$2.6 billion. The statutory date after which the Trust may not incur any additional indebtedness is extended by one calendar year to November 5, 2027.

Currently, the Joint Budget Oversight Committee must approve or disapprove the sale by the Trust of refunding bonds as proposed in a report submitted to the committee. The committee must notify the Trust in writing of the approval or disapproval as expeditiously as possible.

The bill provides that within 30 days of receipt of such a report, the Trust may proceed with the sale of the refunding bonds, if the committee fails to act within that 30 day period, provided that the sale of refunding bonds would realize not less than 3.00% net present value debt service savings.

The bill also directs the Trust to establish a special "Emergency Loan Fund" for an emergency short-term or temporary loan financing or refinancing program to be known as the "Emergency Financing Program." The Emergency Loan Fund would be credited with moneys deposited in the fund as excess administrative fees charged and collected from borrowers by the Trust under the Financing Program.

The bill provides that the Trust may make emergency short-term or temporary loans to local government units, public water utilities or private persons to finance or refinance wastewater treatment system projects or water supply projects that are not included on the corresponding project priority list for the ensuing fiscal year or otherwise eligible for approval under the Financing Program whenever the Commissioner of Environmental Protection has determined and certified, in writing, that any such project constitutes "an emergency project because of an imminent threat to the environment or the public health, safety or welfare caused by structural or mechanical failure, sabotage or act of God." The Emergency Financing Program would

function without regard to any other provision of the Trust's enabling laws, P.L.1985, c.334 and P.L.1997, c.224, or any other administrative or legislative approvals.

FISCAL IMPACT:

The bill increases the Trust's statutory debt ceiling of \$2.4 billion to \$2.6 billion. The statutory date after which the Trust may not incur any additional indebtedness is extended by one calendar year to November 5, 2027.

SENATE, No. 2762

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED MAY 24, 2007

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Makes certain changes to the New Jersey Environmental Infrastructure Trust Financing Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning environmental infrastructure projects, and
2 amending and supplementing P.L.1985, c.334.

3

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

6

7 1. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read
8 as follows:

9 5. Except as otherwise limited by the provisions of P.L.1985,
10 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
11 al.), the trust may:

12 a. Make and alter bylaws for its organization and internal
13 management and, subject to agreements with holders of its bonds,
14 notes or other obligations, make rules and regulations with respect
15 to its operations, properties and facilities;

16 b. Adopt an official seal and alter it;

17 c. Sue and be sued;

18 d. Make and enter into all contracts, leases and agreements
19 necessary or incidental to the performance of its duties and the
20 exercise of its powers under the provisions of P.L.1985, c.334
21 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and
22 subject to any agreement with the holders of the trust's bonds, notes
23 or other obligations, consent to any modification, amendment or
24 revision of any contract, lease or agreement to which the trust is a
25 party;

26 e. Enter into agreements or other transactions with and accept,
27 subject to the provisions of section 23 of P.L.1985, c.334
28 (C.58:11B-23), grants, appropriations and the cooperation of the
29 State, or any State agency, in furtherance of the purposes of
30 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-
31 10.1 et al.), and do anything necessary in order to avail itself of that
32 aid and cooperation;

33 f. Receive and accept aid or contributions from any source of
34 money, property, labor or other things of value, to be held, used and
35 applied to carry out the purposes of P.L.1985, c.334 (C.58:11B-1 et
36 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), subject to the
37 conditions upon which that aid and those contributions may be
38 made, including, but not limited to, gifts or grants from any
39 department or agency of the State, or any State agency, for any
40 purpose consistent with the provisions of P.L.1985, c.334
41 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.),
42 subject to the provisions of section 23 of P.L.1985, c.334
43 (C.58:11B-23);

44 g. Acquire, own, hold, construct, improve, rehabilitate,
45 renovate, operate, maintain, sell, assign, exchange, lease, mortgage

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

Matter underlined thus is new matter.

1 or otherwise dispose of real and personal property, or any interest
2 therein, in the exercise of its powers and the performance of its
3 duties under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.)
4 or P.L.1997, c.224 (C.58:11B-10.1 et al.);

5 h. Appoint and employ an executive director and any other
6 officers or employees as it may require for the performance of its
7 duties, without regard to the provisions of Title 11A of the New
8 Jersey Statutes;

9 i. Borrow money and issue bonds, notes and other obligations,
10 and secure the same, and provide for the rights of the holders
11 thereof as provided in the provisions of P.L.1985, c.334 (C.58:11B-
12 1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

13 j. Subject to any agreement with holders of its bonds, notes or
14 other obligations, invest moneys of the trust not required for
15 immediate use, including proceeds from the sale of any bonds, notes
16 or other obligations, in any obligations, securities and other
17 investments in accordance with the rules and regulations of the
18 State Investment Council or as may otherwise be approved by the
19 Director of the Division of Investment in the Department of the
20 Treasury upon a finding that such investments are consistent with
21 the corporate purposes of the trust;

22 k. Procure insurance to secure the payment of its bonds, notes
23 or other obligations or the payment of any guarantees or loans made
24 by it in accordance with the provisions of P.L.1985, c.334
25 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), or
26 against any loss in connection with its property and other assets and
27 operations, in any amounts and from any insurers as it deems
28 desirable;

29 l. Engage the services of attorneys, accountants, engineers, and
30 financial experts and any other advisors, consultants, experts and
31 agents as may be necessary in its judgment and fix their
32 compensation;

33 m. (1) Make and contract to make loans to local government
34 units, or to a local government unit on behalf of another local
35 government unit, to finance the cost of wastewater treatment system
36 projects or water supply projects and acquire and contract to acquire
37 notes, bonds or other obligations issued or to be issued by any local
38 government units to evidence the loans, all in accordance with the
39 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
40 c.224 (C.58:11B-10.1 et al.);

41 (2) Make and contract to make loans to public water utilities, or
42 to any other person or local government unit on behalf of a public
43 water utility, to finance the cost of water supply projects in
44 accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et
45 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

46 (3) Make and contract to make loans to private persons other
47 than local government units, or to any other person or local
48 government unit on behalf of a private person, to finance the cost of

1 stormwater management systems in accordance with the provisions
2 of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224
3 (C.58:11B-10.1 et al.);

4 n. Subject to any agreement with holders of its bonds, notes or
5 other obligations, purchase bonds, notes and other obligations of the
6 trust and hold the same for resale or provide for the cancellation
7 thereof, all in accordance with the provisions of P.L.1985, c.334
8 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

9 o. (1) Charge to and collect from local government units,
10 private persons or public water utilities any fees and charges in
11 connection with the trust's loans, guarantees or other services,
12 including, but not limited to, fees and charges sufficient to
13 reimburse the trust for all reasonable costs necessarily incurred by it
14 in connection with its financings and the establishment and
15 maintenance of reserve or other funds, as the trust may determine to
16 be reasonable. The fees and charges shall be in accordance with a
17 uniform schedule published by the trust for the purpose of
18 providing actual cost reimbursement for the services rendered;

19 (2) Any fees and charges collected by the trust pursuant to this
20 subsection may be deposited and maintained in a special fund
21 separate from any other funds held by the trust pursuant to section
22 10 of P.L.1985, c.334 (C.58:11B-10) or section 23 of P.L.1997,
23 c.224 (C.58:11B-10.1 **[et al.]**), including the Emergency Loan Fund
24 established pursuant to section 4 of P.L. , c. (C.)(pending
25 before the Legislature as this bill), and shall be available for any
26 corporate purposes of the trust, including the Emergency Financing
27 Program pursuant to section 4 of P.L. , c. (C.)(pending
28 before the Legislature as this bill);

29 p. Subject to any agreement with holders of its bonds, notes or
30 other obligations, obtain as security or to provide liquidity for
31 payment of all or any part of the principal of and interest and
32 premium on the bonds, notes and other obligations of the trust or
33 for the purchase upon tender or otherwise of the bonds, notes or
34 other obligations, lines of credit, letters of credit and other security
35 agreements or instruments in any amounts and upon any terms as
36 the trust may determine, and pay any fees and expenses required in
37 connection therewith;

38 q. Provide to local government units any financial and credit
39 advice as these local government units may request;

40 r. Make payments to the State from any moneys of the trust
41 available therefor as may be required pursuant to any agreement
42 with the State or act appropriating moneys to the trust; and

43 s. Take any action necessary or convenient to the exercise of
44 the foregoing powers or reasonably implied therefrom.

45 (cf: P.L.2001, c.223, s.2)

46

47 2. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read
48 as follows:

1 6. a. Except as may be otherwise expressly provided in the
2 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
3 c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue
4 its bonds, notes or other obligations in any principal amounts as in
5 the judgment of the trust shall be necessary to provide sufficient
6 funds for any of its corporate purposes, including the payment,
7 funding or refunding of the principal of, or interest or redemption
8 premiums on, any bonds, notes or other obligations issued by it,
9 whether the bonds, notes or other obligations or the interest or
10 redemption premiums thereon to be funded or refunded have or
11 have not become due, the establishment or increase of reserves or
12 other funds to secure or to pay the bonds, notes or other obligations
13 or interest thereon and all other costs or expenses of the trust
14 incident to and necessary to carry out its corporate purposes and
15 powers.

16 b. Whether or not the bonds, notes or other obligations of the
17 trust are of a form and character as to be negotiable instruments
18 under the terms of Title 12A of the New Jersey Statutes, the bonds,
19 notes and other obligations are made negotiable instruments within
20 the meaning of and for the purposes of Title 12A of the New Jersey
21 Statutes, subject only to the provisions of the bonds, notes and other
22 obligations for registration.

23 c. Bonds, notes or other obligations of the trust shall be
24 authorized by a resolution or resolutions of the trust and may be
25 issued in one or more series and shall bear any date or dates, mature
26 at any time or times, bear interest at any rate or rates of interest per
27 annum, be in any denomination or denominations, be in any form,
28 either coupon, registered or book entry, carry any conversion or
29 registration privileges, have any rank or priority, be executed in any
30 manner, be payable in any coin or currency of the United States
31 which at the time of payment is legal tender for the payment of
32 public and private debts, at any place or places within or without
33 the State, and be subject to any terms of redemption by the trust or
34 the holders thereof, with or without premium, as the resolution or
35 resolutions may provide. A resolution of the trust authorizing the
36 issuance of bonds, notes or other obligations may provide that the
37 bonds, notes or other obligations be secured by a trust indenture
38 between the trust and a trustee, vesting in the trustee any property,
39 rights, powers and duties in trust consistent with the provisions of
40 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-
41 10.1 et al.) as the trust may determine.

42 d. Bonds, notes or other obligations of the trust may be sold at
43 any price or prices and in any manner as the trust may determine.
44 Each bond, note or other obligation shall mature and be paid not
45 later than 20 years from the effective date thereof, or the certified
46 useful life of the project or projects to be financed by the bonds,
47 whichever is less.

1 All bonds of the trust shall be sold at such price or prices and in
2 such manner as the trust shall determine, after notice of sale, a
3 summary of which shall be published at least once in at least three
4 newspapers published in the State of New Jersey and at least once
5 in a publication carrying municipal bond notices and devoted
6 primarily to financial news published in New Jersey or the city of
7 New York, the first summary notice to be at least five days prior to
8 the day of bidding. The notice of sale may contain a provision to the
9 effect that any or all bids made in pursuance thereof may be
10 rejected. In the event of such rejection or of failure to receive any
11 acceptable bid, the trust, at any time within 60 days from the date of
12 such advertised sale, may sell such bonds at private sale upon terms
13 not less favorable to the State than the terms offered by any rejected
14 bid. The trust may sell all or part of the bonds of any series as
15 issued to any State fund or to the federal government or any agency
16 thereof, at private sale, without advertisement.

17 e. Bonds, notes or other obligations of the trust may be issued
18 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or
19 P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the
20 consent of any department, division, board, bureau or agency of the
21 State, and without any other proceedings or the happening of any
22 other conditions or things, other than those consents, proceedings,
23 conditions or things which are specifically required by P.L.1985,
24 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
25 al.).

26 f. Bonds, notes or other obligations of the trust issued under
27 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
28 c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the
29 State or of any political subdivision thereof other than the trust and
30 shall not create or constitute any indebtedness, liability or
31 obligation of the State or any political subdivision, but all these
32 bonds, notes and other obligations, unless funded or refunded by
33 bonds, notes or other obligations, shall be payable solely from
34 revenues or funds pledged or available for their payment as
35 authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
36 c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall
37 contain on its face a statement to the effect that the trust is obligated
38 to pay the principal thereof or the interest thereon only from its
39 revenues, receipts or funds pledged or available for their payment
40 as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
41 c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any
42 political subdivision thereof, is obligated to pay the principal or
43 interest and that neither the faith and credit nor the taxing power of
44 the State, or any political subdivision thereof, is pledged to the
45 payment of the principal of or the interest on the bonds, notes or
46 other obligations.

47 g. The aggregate principal amount of bonds, notes or other
48 obligations, including subordinated indebtedness of the trust, shall

1 not exceed ~~【\$2,400,000,000】~~ \$2,600,000,000. In computing the
2 foregoing limitations there shall be excluded all the bonds, notes or
3 other obligations, including subordinated indebtedness of the trust,
4 which shall be issued for refunding purposes, whenever the
5 refunding shall be determined to result in a savings.

6 (1) Upon the decision by the trust to issue refunding bonds,
7 except for current refunding, and prior to the sale of those bonds,
8 the trust shall transmit to the Joint Budget Oversight Committee, or
9 its successor, a report that a decision has been made, reciting the
10 basis on which the decision was made, including an estimate of the
11 debt service savings to be achieved and the calculations upon which
12 the trust relied when making the decision to issue refunding bonds.
13 The report shall also disclose the intent of the trust to issue and sell
14 the refunding bonds at public or private sale and the reasons
15 therefor.

16 (2) The Joint Budget Oversight Committee or its successor shall
17 have the authority to approve or disapprove the sales of refunding
18 bonds as included in each report submitted in accordance with
19 paragraph (1) of this subsection. The committee shall notify the
20 trust in writing of the approval or disapproval ~~【as expeditiously as~~
21 possible】 within 30 days of receipt of the report. Should the
22 committee not act within 30 days of receipt of the report, the trust
23 may proceed with the sale of the refunding bonds, provided that the
24 sale of refunding bonds shall realize not less than 3.00% net present
25 value debt service savings.

26 (3) No refunding bonds shall be issued unless the report has
27 been submitted to and approved by the Joint Budget Oversight
28 Committee or its successor as set forth in paragraphs (1) and (2) of
29 this subsection.

30 (4) Within 30 days after the sale of the refunding bonds, the
31 trust shall notify the committee of the result of that sale, including
32 the prices and terms, conditions and regulations concerning the
33 refunding bonds, the actual amount of debt service savings to be
34 realized as a result of the sale of refunding bonds, and the intended
35 use of the proceeds from the sale of those bonds.

36 (5) The committee shall review all information and reports
37 submitted in accordance with this subsection and may, on its own
38 initiative, make observations to the trust, or to the Legislature, or
39 both, as it deems appropriate.

40 h. Each issue of bonds, notes or other obligations of the trust
41 may, if it is determined by the trust, be general obligations thereof
42 payable out of any revenues, receipts or funds of the trust, or
43 special obligations thereof payable out of particular revenues,
44 receipts or funds, subject only to any agreements with the holders of
45 bonds, notes or other obligations, and may be secured by one or
46 more of the following:

47 (1) Pledge of revenues and other receipts to be derived from the
48 payment of the interest on and principal of notes, bonds or other

1 obligations issued to the trust by one or more local government
2 units, and any other payment made to the trust pursuant to
3 agreements with any local government units, or a pledge or
4 assignment of any notes, bonds or other obligations of any local
5 government unit and the rights and interest of the trust therein;

6 (2) Pledge of rentals, receipts and other revenues to be derived
7 from leases or other contractual arrangements with any person or
8 entity, public or private, including one or more local government
9 units, or a pledge or assignment of those leases or other contractual
10 arrangements and the rights and interest of the trust therein;

11 (3) Pledge of all moneys, funds, accounts, securities and other
12 funds, including the proceeds of the bonds, notes or other
13 obligations;

14 (4) Pledge of the receipts to be derived from the payments of
15 State aid, payable to the trust pursuant to section 12 of P.L.1985,
16 c.334 (C.58:11B-12);

17 (5) A mortgage on all or any part of the property, real or
18 personal, of the trust then owned or thereafter to be acquired, or a
19 pledge or assignment of mortgages made to the trust by any person
20 or entity, public or private, including one or more local government
21 units and the rights and interest of the trust therein.

22 i. The trust shall not issue any bonds, notes or other
23 obligations, or otherwise incur any additional indebtedness, on or
24 after November 5, **[2026]** 2027.

25 j. (Deleted by amendment, P.L.1996, c.88).
26 (cf: P.L.2006, c.69, s.1)

27
28 3. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read
29 as follows:

30 9. a. (1) The trust may make and contract to make loans to local
31 government units, or to a local government unit on behalf of
32 another local government unit, in accordance with and subject to the
33 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
34 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
35 treatment system project or water supply project, which the local
36 government unit may lawfully undertake or acquire and for which
37 the local government unit is authorized by law to borrow money.

38 (2) The trust may make and contract to make loans to public
39 water utilities, or to any other person or local government unit on
40 behalf of a public water utility, in accordance with and subject to
41 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
42 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
43 project, which the public water utility may lawfully undertake or
44 acquire.

45 (3) The trust may make and contract to make loans to private
46 persons other than local government units, or to any other person or
47 local government unit on behalf of a private person, in accordance
48 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1

1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
2 of stormwater management systems.

3 The loans may be made subject to those terms and conditions as
4 the trust shall determine to be consistent with the purposes thereof.
5 Each loan by the trust and the terms and conditions thereof shall be
6 subject to approval by the State Treasurer, and the trust shall make
7 available to the State Treasurer all information, statistical data and
8 reports of independent consultants or experts as the State Treasurer
9 shall deem necessary in order to evaluate the loan. Each loan to a
10 local government unit, public water utility or any other person shall
11 be evidenced by notes, bonds or other obligations thereof issued to
12 the trust. In the case of each local government unit, notes and
13 bonds to be issued to the trust by the local government unit (1) shall
14 be authorized and issued as provided by law for the issuance of
15 notes and bonds by the local government unit, (2) shall be approved
16 by the Local Finance Board in the Division of Local Government
17 Services in the Department of Community Affairs, and (3)
18 notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28
19 and N.J.S.40A:2-29 or any other provisions of law to the contrary,
20 may be sold at private sale to the trust at any price, whether or not
21 less than par value, and shall be subject to redemption prior to
22 maturity at any times and at any prices as the trust and local
23 government units may agree. Each loan to a local government unit,
24 public water utility or any other person and the notes, bonds or
25 other obligations thereby issued shall bear interest at a rate or rates
26 per annum as the trust and the local government unit, public water
27 utility or any other person, as the case may be, may agree.

28 b. The trust is authorized to guarantee or contract to guarantee
29 the payment of all or any portion of the principal and interest on
30 bonds, notes or other obligations issued by a local government unit
31 to finance the cost of any wastewater treatment system project or
32 water supply project, which the local government unit may lawfully
33 undertake or acquire and for which the local government unit is
34 authorized by law to borrow money, and the guarantee shall
35 constitute an obligation of the trust for the purposes of P.L.1985,
36 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
37 al.). Each guarantee by the trust and the terms and conditions
38 thereof shall be subject to approval by the State Treasurer, and the
39 trust shall make available to the State Treasurer all information,
40 statistical data and reports of independent consultants or experts as
41 the State Treasurer shall deem necessary in order to evaluate the
42 guarantee.

43 c. The trust shall not make or contract to make any loans or
44 guarantees to local government units, public water utilities or any
45 other person, or otherwise incur any additional indebtedness, on or
46 after November 5, **[2026]** 2027.

47 d. Notwithstanding any provision of P.L.1985, c.334
48 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to

1 the contrary, the trust may receive funds from any source or issue
2 its bonds, notes or other obligations in any principal amounts as in
3 the judgment of the trust shall be necessary to provide sufficient
4 funds to finance or refinance short-term or temporary loans to local
5 government units, public water utilities or private persons for any
6 wastewater treatment system projects included on the project
7 priority list for the ensuing fiscal year and eligible for approval
8 pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water
9 supply projects included on the project priority list for the ensuing
10 fiscal year and eligible for approval pursuant to section 24 of
11 P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to
12 any other provisions of P.L.1985, c.334 or P.L.1997, c.224,
13 including, without limitation, any administrative or legislative
14 approvals.

15 The trust shall create and establish a special fund (hereinafter
16 referred to as the "Interim Financing Program Fund") for the short-
17 term or temporary loan financing or refinancing program
18 (hereinafter referred to as the "Interim Financing Program").

19 Any short-term or temporary loans made by the trust pursuant to
20 this subsection may only be made in advance of the anticipated
21 loans the trust may make and contract to make under the provisions
22 of subsection a. of this section to be financed or refinanced through
23 the issuance of bonds, notes or other obligations of the trust
24 authorized under section 6 of P.L.1985, c.334 (C.58:11B-6). The
25 trust may make short-term or temporary loans pursuant to the
26 Interim Financing Program to any one or more of the project
27 sponsors, for the respective projects thereof, identified in the
28 interim financing project priority list (hereinafter referred to as the
29 "Interim Financing Program Eligibility List") in the form provided
30 to the Legislature by the Commissioner of Environmental
31 Protection.

32 The Interim Financing Program Eligibility List shall be
33 submitted to the Legislature on or before June 30 of each year on a
34 day when both Houses are meeting. The President of the Senate
35 and the Speaker of the General Assembly shall cause the date of
36 submission to be entered upon the Senate Journal and the Minutes
37 of the General Assembly, respectively. Any environmental
38 infrastructure project or the project sponsor thereof not identified in
39 the Interim Financing Program Eligibility List shall not be eligible
40 for a short-term or temporary loan from the Interim Financing
41 Program Fund.

42 (cf: P.L.2006, c.69, s.2)

43
44 4. (New section) a. The trust shall create and establish a special
45 emergency fund (hereinafter referred to as the "Emergency Loan
46 Fund") for the emergency short-term or temporary loan financing or
47 refinancing program (hereinafter referred to as the "Emergency
48 Financing Program").

1 The Emergency Loan Fund shall be credited with:

2 (1) moneys deposited in the fund as administrative fees received
3 by the trust pursuant to subsection o. of section 5 of P.L.1985, c.334
4 (C.58:11B-5);

5 (2) moneys received by the trust as repayment of the principal of
6 and the interest or premium on loans made from the fund;

7 (3) any interest earnings received on the moneys in the fund;
8 and

9 (4) such other moneys as the Legislature may appropriate to the
10 trust for deposit into the fund at any time to finance or refinance
11 emergency short-term or temporary loans pursuant to the
12 Emergency Financing Program.

13 b. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-
14 1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
15 the trust may make emergency short-term or temporary loans to (1)
16 local government units to finance or refinance wastewater treatment
17 system projects not included on the project priority list for the
18 ensuing fiscal year or eligible for approval pursuant to section 20 of
19 P.L.1985, c.334 (C.58:11B-20); or (2) public water utilities or
20 private persons to finance or refinance water supply projects not
21 included on the project priority list for the ensuing fiscal year or
22 eligible for approval pursuant to section 24 of P.L.1997, c.224
23 (C.58:11B-20.1), as applicable, whenever the Commissioner of
24 Environmental Protection has determined and certified, in writing,
25 that any such project constitutes an emergency project because of
26 an imminent threat to the environment or the public health, safety or
27 welfare caused by structural or mechanical failure, sabotage or act
28 of God, without regard to any other provisions of P.L.1985, c.334
29 or P.L.1997, c.224, including, without limitation, the provisions of
30 section 20 of P.L.1985, c.334 (C.58:11B-20), section 24 of
31 P.L.1997, c.224 (C.58:11B-20.1), the Interim Financing Program
32 Eligibility List pursuant to subsection d. of section 9 of P.L.1985,
33 c.334 (C.58:11B-9), or any administrative or legislative approvals.

34

35 5. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill makes certain technical changes to the procedures
41 governing the New Jersey Environmental Infrastructure Trust
42 Financing Program. These changes are necessary to permit the
43 2007 Financing Program to proceed as developed by the Trust.

44 The bill increases the Trust's statutory debt ceiling of \$2.4 billion
45 to \$2.6 billion. The statutory date after which the Trust may not
46 incur any additional indebtedness is extended by one calendar year
47 to November 5, 2027.

1 Currently, the Joint Budget Oversight Committee must approve
2 or disapprove the sale by the Trust of refunding bonds as proposed
3 in a report submitted to the committee. The committee must notify
4 the Trust in writing of the approval or disapproval as expeditiously
5 as possible.

6 The bill provides that within 30 days of receipt of such a report,
7 the Trust may proceed with the sale of the refunding bonds, if the
8 committee fails to act within that 30 day period, provided that the
9 sale of refunding bonds would realize not less than 3.00% net
10 present value debt service savings.

11 The bill also directs the Trust to establish a special "Emergency
12 Loan Fund" for an emergency short-term or temporary loan
13 financing or refinancing program to be known as the "Emergency
14 Financing Program." The Emergency Loan Fund would be credited
15 with moneys deposited in the fund as excess administrative fees
16 charged and collected from borrowers by the Trust under the
17 Financing Program.

18 The bill provides that the Trust may make emergency short-term
19 or temporary loans to local government units, public water utilities
20 or private persons to finance or refinance wastewater treatment
21 system projects or water supply projects that are not included on the
22 corresponding project priority list for the ensuing fiscal year or
23 otherwise eligible for approval under the Financing Program
24 whenever the Commissioner of Environmental Protection has
25 determined and certified, in writing, that any such project
26 constitutes "an emergency project because of an imminent threat to
27 the environment or the public health, safety or welfare caused by
28 structural or mechanical failure, sabotage or act of God." The
29 Emergency Financing Program would function without regard to
30 any other provision of the Trust's enabling laws, P.L.1985, c.334
31 and P.L.1997, c.224, or any other administrative or legislative
32 approvals.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 2762

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Senate Environment Committee reports favorably Senate Bill No. 2762.

Senate Bill No. 2762 makes certain technical changes to the procedures governing the New Jersey Environmental Infrastructure Trust Financing Program. These changes are necessary to permit the 2007 Financing Program to proceed as developed by the New Jersey Environmental Infrastructure Trust (Trust).

The bill increases the Trust's statutory debt ceiling of \$2.4 billion to \$2.6 billion. The statutory date after which the Trust may not incur any additional indebtedness is extended by one calendar year to November 5, 2027.

Currently, the Joint Budget Oversight Committee (JBOC) must approve or disapprove the sale by the Trust of refunding bonds as proposed in a report submitted to the committee. The JBOC must notify the Trust in writing of the approval or disapproval as expeditiously as possible.

The bill provides that within 30 days of receipt of such a report, the Trust may proceed with the sale of the refunding bonds, if JBOC fails to act within that 30 day period, provided that the sale of refunding bonds would realize not less than 3.00% net present value debt service savings.

The bill also directs the Trust to establish a special "Emergency Loan Fund" for an emergency short-term or temporary loan financing or refinancing program to be known as the "Emergency Financing Program." The Emergency Loan Fund would be credited with moneys deposited in the fund as excess administrative fees charged and collected from borrowers by the Trust under the Financing Program.

The bill provides that the Trust may make emergency short-term or temporary loans to local government units, public water utilities or private persons to finance or refinance wastewater treatment system projects or water supply projects that are not included on the corresponding project priority list for the ensuing fiscal year or otherwise eligible for approval under the Financing Program whenever the Commissioner of Environmental Protection has determined and certified, in writing, that any such project constitutes "an emergency project because of an imminent threat to the environment or the public health, safety or welfare caused by structural or mechanical failure,

sabotage or act of God.” The Emergency Financing Program would function without regard to any other provision of the Trust’s enabling laws, P.L.1985, c.334 (C.58:11B-1 et seq.) and P.L.1997, c.224 (C.58:11B-20.1 et seq.), or any other administrative or legislative approvals.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2762

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Senate Budget and Appropriations Committee Reports favorably Senate Bill No. 2762.

This bill makes certain technical changes to the procedures governing the New Jersey Environmental Infrastructure Trust Financing Program. These changes are necessary to permit the 2007 Financing Program to proceed as developed by the Trust.

Specifically, the bill increases the Trust's statutory debt ceiling of \$2.4 billion to \$2.6 billion. The statutory date after which the Trust may not incur any additional indebtedness is extended by one calendar year to November 5, 2027.

In addition, the bill provides that if the Joint Budget Oversight Committee fails to act within 30 days of receipt of a report on the sale of the refunding bonds, the Trust may proceed with the sale, provided that the sale of refunding bonds would realize not less than 3.00% net present value debt service savings. Currently, the Joint Budget Oversight Committee must notify the Trust in writing of its approval or disapproval of the sale of refunding bonds as expeditiously as possible following receipt of the report.

The bill also directs the Trust to establish a special "Emergency Loan Fund" for an emergency short-term or temporary loan financing or refinancing program to be known as the "Emergency Financing Program." The Emergency Loan Fund would be credited with moneys deposited in the fund as excess administrative fees charged and collected from borrowers by the Trust under the Financing Program.

The bill provides that the Trust may make emergency short-term or temporary loans to local government units, public water utilities or private persons to finance or refinance wastewater treatment system projects or water supply projects that are not included on the corresponding project priority list for the ensuing fiscal year or otherwise eligible for approval under the Financing Program whenever the Commissioner of Environmental Protection has determined and certified, in writing, that any such project constitutes "an emergency project because of an imminent threat to the environment or the public health, safety or welfare caused by structural or mechanical failure, sabotage or act of God." The Emergency Financing Program would function without regard to any other provision of the Trust's enabling

laws, P.L.1985, c.334 and P.L.1997, c.224, or any other administrative or legislative approvals.

FISCAL IMPACT:

The bill increases the Trust's statutory debt ceiling of \$2.4 billion to \$2.6 billion. The statutory date after which the Trust may not incur any additional indebtedness is also extended by one calendar year to November 5, 2027.