

58:2-3 to 58:2-5

LEGISLATIVE HISTORY CHECKLIST

NJSA 58:2-3-58:2-5; 58:1A-1-58:1A-17; ("Water Supply Management Act"—management  
and diversion of surface ground water)  
13:1E-49.1-13:1E-49.4  
LAWS 1981 CHAPTER 262

Bill No. S1611/S1613

Sponsor(s) Dodd

Date Introduced Nov. 24, 1980

Committee: Assembly \_\_\_\_\_  
Senate Energy and Environment

Amended during passage Yes No (Senate Committee substitute enacted. Substituted for A2346 (attached))

Date of Passage: Assembly June 25, 1981

Senate June 25, 1981

Date of approval Aug. 13, 1981

Following statements are attached if available:

- Sponsor statement Yes ~~No~~
- Committee Statement: Assembly ~~Yes~~ No
- Senate Yes ~~No~~
- Fiscal Note ~~Yes~~ No
- Veto Message ~~Yes~~ No
- Message on signing Yes ~~No~~

Following were printed:

- Reports Yes ~~No~~
- Hearings Yes ~~No~~

974.90 New Jersey. Legislature. Senate Committee  
W329 on Energy and Environment.  
1981 Public hearings, held 1-28-81, 2-10-81,  
2-17-81 & 2-24-81. New Jersey, 1981.

Cited on p.21 of v.3 of (above) public hearings:  
Water Supply Construction Projects (attached).

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Master plan (cited throughout public hearings):

974.90' New Jersey. Division of Water Resources.  
W329 Statewide water supply master plan.  
1977 Oct. 28, 1977. Trenton, 1977.

974.90 New Jersey. Division of Water Resources.  
W329 The NJ Statewide water supply master  
1981d plan. Draft...June, 1981. Trenton, 1981.

974.90 Source material... for the NJ statewide  
W329 water supply plan, June, 1980.  
1980b Prepared by consultants Havens &  
Emerson, Inc. Trenton, 1980.

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE, Nos. 1611 and 1613

STATE OF NEW JERSEY

ADOPTED JUNE 15, 1981 ✓

AN Act concerning the management of water and the diversion of any surface or ground water anywhere in the State, and revising and repealing parts of the statutory law relating thereto.

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

1 1. This act shall be known and may be cited as the "Water  
2 Supply Management Act."

1 2. The Legislature finds and declares that the water resources  
2 of the State are public assets of the State held in trust for its  
3 citizens and are essential to the health, safety, economic welfare,  
4 recreational and aesthetic enjoyment, and general welfare, of the  
5 people of New Jersey; that ownership of these assets is in the State  
6 as trustee of the people; that because some areas within the State  
7 do not have enough water to meet their current needs and provide  
8 an adequate margin of safety, the water resources of the State and  
9 any water brought into the State must be planned for and managed  
10 as a common resource from which the requirements of the several  
11 regions and localities in the State shall be met; that the present  
12 regulatory system for these water resources is ineffective and  
13 counter-productive; that it is necessary to insure that within each  
14 basin there exists adequate water supplies to accommodate present  
15 and future needs; that to ensure an adequate supply and quality  
16 of water for citizens of the State, both present and future, and to  
17 protect the natural environment of the waterways of the State,  
18 it is necessary that the State, through its Department of Environ-  
19 mental Protection, have the power to manage the water supply by  
20 adopting a uniform water diversion permit system and fee sched-  
21 ule, a monitoring, inspection and enforcement program, a program  
22 to study and manage the State's water resources and plan for  
23 emergencies and future water needs, and regulations to manage  
24 the waters of the State during water supply and water quality  
25 emergencies.

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

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Environmental Protection or his designated representative;

4 b. "Consumptive use" means any use of water diverted from  
5 surface or ground waters other than a nonconsumptive use as  
6 defined in this act;

7 c. "Department" means the Department of Environmental Pro-  
8 tection;

9 d. "Diversion" means the taking or impoundment of water from  
10 a river, stream, lake, pond, aquifer, well, other underground source,  
11 or other waterbody, whether or not the water is returned thereto.  
12 consumed, made to flow into another stream or basin, or discharged  
13 elsewhere;

14 e. "Nonconsumptive use" means the use of water diverted from  
15 surface or ground waters in such a manner that it is returned to  
16 the surface or ground water at or near the point from which it was  
17 taken without substantial diminution in quantity or substantial  
18 impairment of quality;

19 f. "Person" means any individual, corporation, company, part-  
20 nership, firm, association, owner or operator of a water supply  
21 facility, political subdivision of the State and any state, or inter-  
22 state agency or Federal agency;

23 g. "Waters" or "waters of the State" means all surface waters  
24 and ground waters in the State.

1 4. a. Upon a finding by the commissioner that there exists or  
2 impends a water supply shortage of a dimension which endangers  
3 the public health, safety, or welfare in all or any part of the State,  
4 the Governor is authorized to proclaim by executive order a state  
4A of water emergency. The Governor may limit the applicability of  
5 any state of emergency to specific categories of water supplies  
6 or to specific areas of the State in which a shortage exists or  
7 impends.

8 b. The department shall, within 180 days of the effective date  
9 of this act, adopt an Emergency Water Supply Allocation Plan  
10 as a rule and regulation. This plan shall be utilized as the basis  
11 for imposing water usage restrictions during a declared state of  
12 water emergency and shall include a priority system for the order  
13 in which restrictions would be imposed upon the various categories  
14 of water usage.

15 c. During the duration of a state of water emergency the com-  
16 missioner, to the extent not in conflict with applicable Federal law  
17 or regulation but notwithstanding any State or local law or con-  
18 tractual agreement, shall be empowered to:

19 (1) Order any person to reduce by a specified amount the use  
20 of any water supply; to make use of an alternate water supply  
21 where possible; to make emergency interconnections between sys-  
22 tems; to transfer water from any public or private system; or to  
23 cease the use of any water supply;

24 (2) Order any person engaged in the distribution of any water  
25 supply to reduce or increase by a specified amount or to cease the  
26 distribution of that water supply; to distribute a specified amount  
27 of water to certain users as specified by the commissioner; or to  
28 share any water supply with other distributors thereof;

29 (3) Establish priorities for the distribution of any water supply;

30 (4) Adopt rules and regulations as are necessary and proper  
31 to carry out the purposes of this section; and

32 (5) Direct any person engaged in the retail distribution of water  
33 to impose and collect a surcharge on the cost of that water as a  
34 penalty for the violation of any order to reduce water usage issued  
35 pursuant to this subsection. The disposition of all sums collected  
36 pursuant to this subsection shall be as provided by law; and

37 (6) Otherwise implement the Emergency Water Supply Allo-  
38 cation Plan adopted pursuant to subsection b. of this section.

39 Any order issued by the commissioner pursuant to this subsection  
40 shall be based upon fair compensation, reasonable rate relief and  
41 just and equitable terms, to be determined after notice and hearing  
42 which may occur subsequent to the order and compliance therewith.

43 d. During the existence of a state of water emergency, the Gov-  
44 ernor may order the suspension of any laws, rules, regulations,  
45 or orders of any department or agency in State Government or  
46 within any political subdivision which deal with or affect water  
47 and which impede his ability to alleviate or terminate a state of  
48 water emergency.

49 e. Any aggrieved person, upon application to the commissioner,  
50 shall be granted a review of whether the continuance of any order  
51 issued by the commissioner pursuant to this section is unreason-  
52 able in light of then prevailing conditions of emergency.

53 f. During a state of water emergency the commissioner may  
54 require any other department or other agency within State Gov-  
55 ernment to provide information, assistance, resources, and per-  
56 sonnel as shall be necessary to discharge his functions and respon-  
57 sibilities under this act, rules and regulations adopted hereunder,  
58 or applicable Federal law and regulations.

59 g. The powers granted to the Governor and the commissioner  
60 under this section shall be in addition to and not in limitation of

61 any emergency powers now or hereafter vested in the Governor,  
62 the commissioner, or any other State department or agency pur-  
63 suant to any other laws; except that, upon declaring a state of  
64 energy emergency, the Governor may supersede any other emer-  
65 gency powers.

66 h. The state of water emergency declared by the Governor pur-  
67 suant to this section shall remain in effect until the Governor  
68 declares by a subsequent executive order that the state of water  
69 emergency has terminated.

1 5. The commissioner shall have the power to adopt, enforce,  
2 amend or repeal, pursuant to the "Administrative Procedure Act,"  
3 P. L. 1968, c. 410 (C:52:14B-1 et seq.) rules and regulations to  
4 control, conserve, and manage the water supply of the State and  
5 the diversions of that water supply to assure the citizens of the  
6 State an adequate supply of water under a variety of conditions and  
7 to carry out the intent of this act. These rules and regulations may  
8 apply throughout the State or in any region thereof and shall  
9 provide for the allocation or the reallocation of the waters of the  
10 State in such a manner as to provide an adequate quantity and  
11 quality of water for the needs of the citizens of the State in the  
12 present and in the future and may include, but shall not be limited  
13 to:

14 a. A permit system to allocate or reallocate any or all of the  
15 waters of the State, which system shall provide for the issuance of  
16 permits to diverters of more than 100,000 gallons per day of the  
17 waters of the State, containing at a minimum the conditions re-  
18 quired by this act;

19 b. Standards and procedures to be followed by diverters to  
20 ensure that:

21 (1) Proper methods are used to divert water;

22 (2) Only the permitted quantity of water is diverted and that  
23 the water is only used for its permitted purpose;

24 (3) The water quality of the water source is maintained and the  
25 water standards for the use of the water are met;

26 (4) The department is provided with adequate and accurate  
27 reports regarding the diversion and use of water;

28 c. Inspection, monitoring, reporting and enforcement procedures  
29 necessary to implement and enforce the provisions of this act;

30 d. Standards and procedures to be followed to determine the  
31 location, extent and quality of the water resources of the State  
32 and plan for their future use to meet the needs of the citizens of  
33 the State;

34 e. Standards and procedures to be followed to maintain the  
35 minimum water levels and flow necessary to provide adequate  
36 water quantity and quality;

37 f. Standards and procedures governing the maintenance of  
38 adequate capacity by, and withdrawal limits for, water purveyors.

1 6. a. The department in developing the permit system established  
2 by this act shall:

3 (1) Permit privileges previously allowed pursuant to lawful  
4 legislative or administrative action, except that the department  
5 may, after notice and hearing, limit the exercise of these privileges  
6 to the extent currently exercised, subject to contract, or reasonably  
7 required for a demonstrated future need. All diversion permits  
8 issue by the Water Policy and Supply Council prior to the effective  
9 date of this act shall remain in effect until modified by the depart-  
10 ment pursuant to this act. Persons having or claiming a right to  
11 divert more than 100,000 gallons of water per day pursuant to  
12 prior legislative or administrative action, including persons pre-  
13 viously exempted from the requirement to obtain a permit, shall  
14 renew that right by applying for a permit, or water usage certifica-  
15 tion, as the case may be, within 180 days of the effective date of  
16 this act. Thereafter, the conditions of the new permit or certifica-  
17 tion shall be conclusive evidence of such previously allowed privi-  
18 leges.

19 (2) Require any person diverting 100,000 or more gallons of  
20 water per day for agricultural or horticultural purposes to obtain  
21 departmental approval in consultation with the appropriate county  
22 agricultural agent, of a 5 year water usage certification program.  
23 This program shall include the right to construct, repair or re-  
24 construct dams or other structures, the right to divert water for  
25 irrigation, frost protection, harvesting and other agriculturally-  
26 related purposes, and the right to measure the amount of water  
27 diverted by means of a log or other appropriate record, and shall  
28 be obtained in lieu of any permit which would otherwise be required  
29 by this act.

30 b. Nothing in this act shall prevent the department from includ-  
31 ing, or require the department to include, the presently non-utilized  
32 existing privileges in the new or any future diversion permits  
33 issued to the present possessors of these privileges, except as  
34 otherwise expressly provided in subsection a. of this section.

1 7. a. Except as provided by section 6 of this act, no person may  
2 divert more than 100,000 gallons per day of any waters of the State  
3 or construct any building or structure which may require a diversion

4 of water unless he obtains a diversion permit. Prior to issuing  
5 these permits, the department shall afford the general public with  
6 reasonable notice of permit applications, and with the opportunity  
7 to be heard thereon at a public hearing held by the department.

8 b. Every permit issued pursuant to this section and every water  
9 usage certification approved pursuant to section 6 of this act shall  
10 be renewed by the department upon the expiration thereof, with any  
11 conditions deemed appropriate by the department, for the same  
12 quantity of water, except that the department may, after notice  
13 and hearing, limit that quantity to the amount currently diverted,  
14 subject to contract, or reasonably required for a demonstrated  
15 future need.

1 8. Every permit issued pursuant to this act shall include pro-  
2 visions:

3 a. Fixing the term of the permit;

4 b. Fixing the maximum allowable diversion, expressed in terms  
5 of a daily or monthly diversion;

6 c. Identifying and limiting the use or uses to which the water  
7 may be put;

8 d. Requiring the diverter to meter the water being diverted and  
9 report the amount and quality of the water being diverted;

10 e. Allowing the department to enter the diverter's facilities or  
11 property to inspect and monitor the diversion;

12 f. Requiring that all water diverted for a nonconsumptive use  
13 be returned to a reasonably proximate body of water designated  
14 by the department;

15 g. Allowing the transfer of a permit with the consent of the  
16 department, but only for the identical use of the waters by the  
17 transferee;

18 h. Governing the operations and maintenance of the specific  
19 facilities, equipment or premises not otherwise established in  
20 regulations because of the unique nature of the facilities, equip-  
21 ment or premises;

22 i. Permitting the department to modify, suspend or terminate  
23 the permit, after notice and hearing, for violations of its conditions,  
24 this act, regulations adopted or orders issued by the department,  
25 and when deemed necessary for the public interest.

1 9. The Board of Public Utilities shall fix just and reasonable rates  
2 for any public water supply system subject to its jurisdiction, as  
3 may be necessary for that system to comply with an order issued  
4 by the department or the terms and conditions of a permit issued  
5 pursuant to this act.



1 10. Any expenditures necessary to comply with an order or permit  
2 issued by the department for construction, improvement, repair or  
3 rehabilitation of public water supply systems shall, for the pur-  
4 poses of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered as  
5 expenditures mandated by State law.

1 11. The department shall in accordance with a fee schedule  
2 adopted by rule and regulation, establish and charge reasonable  
3 administrative fees, which fees shall be based upon, and not exceed,  
4 the estimated cost of processing, monitoring, administering and en-  
5 forcing the diversion permits. The department shall deposit the  
6 fees in the "Environmental Services Fund" created by P. L. 1975,  
7 c. 232 (C. 13:1D-30 et seq.). There shall be annually appropriated  
8 an amount equivalent to the amount anticipated to be collected as  
9 fees by the department for the administration of the water supply  
10 management program.

1 12. No person supplying or proposing to supply water to any  
2 other person shall have the power to condemn lands, water or  
3 water privileges for any new or additional source of ground or  
4 surface water until that person has first submitted to the department  
5 an application for approval to divert the source of the water and  
6 the department has approved the application subject to such condi-  
7 tions as it may determine to be necessary to protect the public  
8 health and welfare.

1 13. a. Within 180 days of the effective date of this act, the  
2 department shall prepare and adopt the New Jersey Statewide  
3 Water Supply Plan, which plan shall be revised and updated at  
4 least once every 5 years.

5 b. The plan shall include, but need not be limited to, the following:

6 (1) An identification of existing Statewide and regional ground  
7 and surface water supply sources, both interstate and intrastate,  
8 and the current usage thereof;

9 (2) Projections of Statewide and regional water supply demand  
10 for the duration of the plan;

11 (3) Recommendations for improvements to existing State water  
12 supply facilities, the construction of additional State water supply  
13 facilities, and for the interconnection or consolidation of existing  
14 water supply systems; and

15 (4) Recommendations for legislative and administrative actions  
16 to provide for the maintenance and protection of watershed areas.

17 c. Prior to adopting the plan, the department shall:

18 (1) Prepare and make available to all interested persons a  
19 proposed plan:

20 (2) Conduct public meetings in the several geographic areas of  
21 the State on the proposed plan; and

22 (3) Consider the comments made at these meetings, make any  
23 revisions to the proposed plan as it deems necessary, and adopt  
24 the plan.

1 14. a. When the department determines that the developed water  
2 supply available to a water purveyor is inadequate to service its  
3 users with an adequate supply of water under a variety of condi-  
4 tions, the department may order the water purveyor to develop or  
5 acquire, within a reasonable period of time, additional water sup-  
6 plies sufficient to provide that service.

7 b. The Division of Local Government Services in the Department  
8 of Community Affairs shall, when reviewing the annual budget  
9 of any municipality, county, or agency thereof which operates a  
10 public water supply system, certify that an amount sufficient to  
11 cover the cost of any order issued to the municipality, county or  
12 agency thereof pursuant to subsection a. of this section is included  
13 in that annual budget.

1 15. The department may:

2 a. Perform any and all acts and issue such orders as are neces-  
3 sary to carry out the purposes and requirements of this act;

4 b. Administer and enforce the provisions of this act and rules,  
5 regulations and orders promulgated, issued or effective hereunder;

6 c. Present proper identification and then enter upon any land or  
7 water for the purpose of making any investigation, examination or  
8 survey contemplated by this act;

9 d. Subpena and require the attendance of witnesses and the  
10 production by them of books and papers pertinent to the investiga-  
11 tions and inquiries the department is authorized to make under  
12 this act, and examine them and such public records as shall be  
13 required in relation thereto;

14 e. Order the interconnection of public water supply systems,  
15 whether in public or private ownership, whenever the department  
16 determines that the public interest requires that this interconnec-  
17 tion be made, and require the furnishing of water by means of that  
18 system to another system, but no order shall be issued before  
19 comments have been solicited at a public hearing, notice of which  
20 has been published at least 30 days before the hearing, in one  
21 newspaper circulating generally in the area served by each involved  
22 public water supply system, called for the purpose of soliciting  
23 comments on the proposed action.

2025

24 f. Order any person diverting water to improve or repair its  
 25 water supply facilities so that water loss is eliminated so far as  
 26 practicable, safe yield is maintained and the drinking water quality  
 27 standards adopted pursuant to the "Safe Drinking Water Act."  
 28 P. L. 1977, c. 224 (C. 58:12A-1 et seq.) are met;

29 g. Enter into agreements, contracts, or cooperative arrangements  
 30 under such terms and conditions as the department deems appro-  
 31 priate with other states, other State agencies, Federal agencies,  
 32 municipalities, counties, educational institutions, investor owned  
 33 water companies, municipal utilities authorities, or other organiza-  
 34 tions or persons;

35 h. Receive financial and technical assistance from the Federal  
 36 Government and other public or private agencies;

37 i. Participate in related programs of the Federal Government,  
 38 other states, interstate agencies, or other public or private agencies  
 39 or organizations;

40 j. Establish adequate fiscal controls and accounting procedures to  
 41 assure proper disbursement of and accounting for funds appro-  
 42 priated or otherwise provided for the purpose of carrying out the  
 43 provisions of this act;

44 k. Delegate those responsibilities and duties to personnel of the  
 45 department as deemed appropriate for the purpose of administer-  
 46 ing the requirements of this act;

47 l. Combine permits issued pursuant to this act with permits  
 48 issued pursuant to any other act whatsoever that action would  
 49 improve the administration of both acts;

50 m. Evaluate and determine the adequacy of ground and surface  
 51 water supplies and develop methods to protect aquifer recharge  
 52 areas.

1 16. If any person violates any of the provisions of this act or  
 2 any rule, regulation or order adopted or issued pursuant to the  
 3 provisions of this act, the department may institute a civil action  
 4 in a court of competent jurisdiction for injunctive relief to enforce  
 5 said provisions and to prohibit and prevent that violation and the  
 6 court may proceed in the action in a summary manner. Any person  
 7 who violates the provisions of this act or any rule, regulation or  
 8 order adopted or issued pursuant to this act shall be liable to a  
 9 civil administrative penalty of not more than \$5,000.00 for each  
 10 offense to be imposed by the department pursuant to standards  
 11 adopted in regulations; or a civil penalty of not more than \$5,000.00  
 12 for each offense, to be collected in a civil action by a summary  
 13 proceeding under "the penalty enforcement law" (N. J. S. 2A:58-1

14 et seq.) or in any case before a court of competent jurisdiction  
15 wherein injunctive relief has been requested. The Superior Court  
16 and county district court shall have jurisdiction to enforce the  
17 penalty enforcement law. If the violation is of a continuing nature,  
18 each day during which it continues shall constitute an additional,  
19 separate and distinct offense. The department is authorized to  
20 compromise and settle any claim for a penalty under this section  
21 in such amount in the discretion of the department as may appear  
22 appropriate and equitable under all of the circumstances.

1 17. All of the powers, duties and functions of the Water Policy  
2 and Supply Council are transferred to the Department of Environ-  
3 mental Protection. Whenever the term "Water Policy and Supply  
4 Council" occurs or any reference is made thereto in any law, con-  
5 tract or document, administrative or judicial determination, or  
6 otherwise, it shall be deemed to mean or refer to the Department  
7 of Environmental Protection.

1 18. a. There is established in the department a Water Supply  
2 Advisory Council which shall consist of seven members appointed  
3 by the Governor with the advice and consent of the Senate. Each  
4 of these members shall be appointed for a term of 3 years, provided  
5 that, of the members first appointed by the Governor, three shall  
6 serve for terms of 1 year, two shall serve for terms of 2 years, and  
7 two shall serve for terms of 3 years. Of these members, one shall  
8 be a representative of the agricultural community, one shall be a  
9 representative of industrial and commercial water users, one shall  
10 be a representative of residential water users, one shall be a  
11 representative of investor-owned water companies, one shall be a  
12 representative of municipal or county water companies, one shall  
13 be a representative of private watershed protection associations  
14 and one shall be a representative of the academic community.

15 b. A majority of the membership of the council shall constitute  
16 a quorum for the transaction of council business. Action may be  
17 taken and motions and resolutions adopted by the council at any  
18 meeting thereof by the affirmative vote of a majority of the full  
19 membership of the council.

20 c. The council shall meet regularly as it may determine, and  
21 shall also meet at the call of the commissioner.

22 d. The council shall appoint a chairman from among its members  
23 and such other officers as may be necessary. The council may,  
24 within the limits of any funds appropriated or otherwise made  
25 available to it for this purpose, appoint such staff or hire such  
26 experts as it may require.

27 e. Members of the council shall serve without compensation,  
28 but the council may, within the limits of funds appropriated or  
29 otherwise made available for such purposes, reimburse its members  
30 for necessary expenses incurred in the discharge of their official  
31 duties.

1 19. The council shall:

2 a. Advise the department concerning the preparation, adoption  
3 and revision of the New Jersey Statewide Water Supply Plan;

4 b. Advise the department concerning the implementation of the  
5 permit program required by this act:

6 c. Advise the New Jersey Water Supply Authority concerning  
7 the construction, maintenance and operation of State water supply  
8 facilities and projects; and

9 d. Advise the department concerning the preparation and imple-  
10 mentation of the Emergency Water Supply Allocation Plan.

1 20. The council may:

2 a. Review any matter relating to water supply and to transmit  
3 such recommendations thereon to the department or to the New  
4 Jersey Water Supply Authority as it may deem appropriate;

5 b. Hold public meetings or hearings within this State on any  
6 matter related to water supply; and

7 c. Call to its assistance and avail itself of the services of such  
8 employees of any State, county or municipal department, board,  
9 commission or agency as may be required and made available for  
10 such purposes.

1 21. R. S. 58:2-2 is amended to read as follows:

2 58:2-2. Payment for water diverted as provided in [section]  
3 R. S. 58:2-1 [of this title] shall be deemed to be a license and its  
4 amount shall be fixed by the [State Water Policy Commission]  
5 department at a rate of not less than \$1.00 nor more than \$10.00 per  
6 million gallons. If at all times an amount equal to the average daily  
7 flow for the driest month, as shown by the existing records, or in  
8 lieu thereof 175,000 gallons daily for each square mile of unappro-  
9 priated watershed above the point of diversion, shall be allowed to  
10 flow down the stream. The [commission] department shall fix the  
11 minimum rate and may increase the rate proportionally as a less  
12 amount is allowed to flow down the stream below the point of  
13 diversion, due account being taken in fixing said increase both of  
14 the duration and amount of the deficiency. The aforesaid 125,000  
15 gallons daily for each square mile of unappropriated watershed  
16 shall be additional to the dry-season flow or any part thereof which  
17 may be allowed to flow from any appropriated watershed or  
18 watersheds above the point of diversion.

19 Water diverted within the corporate limits of a municipality for  
20 manufacturing and fire purposes only and returned without pollu-  
21 tion to the stream from which it was taken within said corporate  
22 limits shall not be reckoned in making up the aggregate amount  
23 diverted.

24 Any party aggrieved by the action of the **[commission]** *depart-*  
25 *ment* upon filing written complaint on or before March twentieth,  
26 shall be heard and permitted to give evidence of the facts, and the  
27 sum fixed may be changed, reduced, or cancelled, as the facts may  
28 warrant.

1 22. R. S. 58:2-3 is amended to read as follows:

2 58:2-3. The **[State Water Policy Commission]** *department* shall  
3 annually certify to the State Comptroller, as soon as practicable  
4 after January first, and not later than February fifteenth, the  
5 names of all municipalities, corporations or private persons owing  
6 money to the State for the diversion of water during the preceding  
7 year, with the amounts so due.

8 The State Comptroller shall promptly notify said municipalities,  
9 water companies or persons of their indebtedness to the State, and  
10 if said amounts are not paid to the State Treasurer on or before  
11 July first of the same year, the State Comptroller shall certify to  
12 the Attorney-General for collection the names of the delinquents  
13 and the amounts due from each, and the Attorney-General shall take  
14 immediate steps to collect the same in the name of the State.

15 All sums received as herein provided shall be **[paid into the**  
16 **General State Fund and the expenses of the administration of this**  
17 **chapter shall be included in the annual appropriations bill]**  
18 *deposited to the credit of the State and deemed as part of the*  
19 *Environmental Services Fund. The Legislature shall annually*  
20 *appropriate an amount equivalent to the amount anticipated to be*  
21 *collected as sums charged under this section in support of the water*  
22 *management programs.*

1 23. R. S. 58:2-4 is amended to read as follows:

2 58:2-4. In the case of the condemnation of subsurface, well or  
3 percolating water supplies, there shall be charged by the State a  
4 fee of \$1.00 per million gallons from that portion of the supply for  
5 the acquisition of which the State's right of eminent domain is  
6 exercised for all water diverted, which charge shall be certified to  
7 the State Comptroller by the **[State Water Policy Commission]**  
8 *department* and its collection shall be enforced in the same manner  
9 as hereinbefore in this chapter provided in the case of excess  
10 diversion of surface water supplies.

1 24. R. S. 58:2-5 is amended to read as follows:

2 58:2-5. Nothing in this chapter shall be construed to confer upon  
3 any municipality, corporation or person, any franchise not already  
4 possessed by said municipality, corporation or person, but the  
5 approval of the [commission] *department* contained in its decision  
6 as provided in this chapter, shall constitute the assent of the State  
7 to the diversion of water as against the State in accordance with  
8 the terms of said decision.

1 25. Any rules and regulations promulgated pursuant to any  
2 statutes repealed by this act shall remain in effect until superseded  
3 by rules and regulations promulgated pursuant to this act. How-  
4 ever, all such rules and regulations shall be reviewed and revised  
5 where necessary by the department within 2 years of the enact-  
6 ment of this act.

1 26. The following are repealed:

2 R. S. 58:1-2 through R. S. 58:1-25;

3 R. S. 58:1-28 through R. S. 57:1-34;

4 R. S. 58:3-1;

5 R. S. 58:6-1 through R. S. 58:6-5;

6 P. L. 1942, c. 24 (C. 58:1-25.1 through 58:1-25.25);

7 P. L. 1963, c. 181 § 1-14, 16, 17 (C. 58:1-35 through 58:1-50);

8 P. L. 1947, c. 375 (C. 58:4A-1 through 58:4A-4);

9 P. L. 1945, c. 22, § 9 (C. 13:1A-9);

10 P. L. 1948, c. 448, § 100, 101 (C. 13:1B-49 and 13:1B-50).

1 27. This act shall take effect immediately.

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SENATE, No. 1611

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT concerning the management of water and the diversion of any surface or ground water anywhere in the State, and revising and repealing parts of the statutory law relating thereto.

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

1 1. This act shall be known and may be cited as the "Water Sup-  
2 ply Management Act."

1 2. The Legislature finds and declares that the water resources  
2 of the State are public assets of the State held in trust for its citi-  
3 zens and are essential to the health, safety, economic welfare,  
4 recreational and aesthetic enjoyment, and general welfare, of the  
5 people of New Jersey; that ownership of these assets is in the State  
6 as trustee of the people; that because some areas within the State  
7 do not have enough water to meet their current needs and provide  
8 an adequate margin of safety the water resources of the State and  
9 any water brought into the State must be planned for and managed  
10 as a common resource from which the requirements of the several  
11 regions and localities in the State shall be met; that the present  
12 regulatory system for these water resources is ineffective and  
13 counter-productive; that each basin from which water is presently  
14 diverted to another basin be provided with adequate water supplies  
15 when needed in the future; that to ensure an adequate supply and  
16 quality of water for citizens of the State, both present and future,  
17 and to protect the natural environment of the waterways of the  
18 State it is necessary that the State, through its Department of  
19 Environmental Protection, have the power to manage the water  
20 supply by adopting a uniform water diversion permit system and  
21 fee schedule, a monitoring, inspection and enforcement program,  
22 a program to study and manage the State's water resources and  
23 plan for emergencies and future water needs, and regulations to

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



24 manage the waters of the State during water supply and water  
25 quality emergencies.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Environmental Protection or his designated representative;

4 b. "Consumptive use" means any use of water diverted from  
5 surface or ground waters other than a nonconsumptive use as  
6 defined in this act;

7 c. "Department" means the Department of Environmental Pro-  
8 tection;

9 d. "Diversion" means the taking or impoundment of water from  
10 a river, stream, lake, pond, aquifer, well, other underground source,  
11 or other waterbody, whether or not the water is returned thereto,  
12 consumed, made to flow into another stream or basin, or discharged  
13 elsewhere;

14 e. "Nonconsumptive use" means the use of water diverted from  
15 surface or ground waters in such a manner that it is returned to  
16 the surface or ground water at or near the point from which it was  
17 taken without substantial diminution in quantity or substantial  
18 impairment of quality;

19 f. "Person" means any individual, corporation, company, part-  
20 nership, firm, association, owner or operator of a water supply  
21 facility, political subdivision of the State and any state, or inter-  
22 state agency or Federal agency;

23 g. "Waters" or "waters of the State" means all surface waters  
24 and ground waters in the State.

1 4. The commissioner shall have the power to adopt, enforce,  
2 amend or repeal, pursuant to the "Administrative Procedure Act,"  
3 P. L. 1968, c. 410 (C. 52:14B-1 et seq.) rules and regulations to  
4 control, conserve, and manage the water supply of the State and  
5 the diversions of that water supply to assure the citizens of the  
6 State an adequate supply of water under a variety of conditions and  
7 to carry out the intent of this act. These rules and regulations may  
8 apply throughout the State or in any region thereof and shall  
9 provide for the allocation or the reallocation of the waters of the  
10 State in such a manner as to provide an adequate quantity and  
11 quality of water for the needs of the citizens of the State in the  
12 present and in the future and may include, but shall not be limited  
13 to:

14 a. A permit system to allocate or reallocate any or all of the  
15 waters of the State, which system shall provide for the issuance of  
16 permits to diverters of the waters of the State, containing at a  
17 minimum the conditions required by this act;

18 b. Standards and procedures, incorporating the minimum re-  
19 quirements of section 7 of this act, to determine the extent and use  
20 of previously granted water privileges and to bring the possessors  
21 of these privileges within any permit system which may be estab-  
22 lished under this act;

23 c. Standards and procedures to be followed by diverters to  
24 ensure that:

25 (1) Proper methods are used to divert water;

26 (2) Only the permitted quantity of water is diverted and that  
27 the water is only used for its permitted purpose;

28 (3) The water quality of the water source is maintained and the  
29 water standards for the use of the water are met;

30 (4) The department is provided with adequate and accurate  
31 reports regarding the diversion and use of water;

32 d. Inspection, monitoring, reporting and enforcement procedures  
33 necessary to implement and enforce the provisions of this act;

34 e. Standards and procedures to be followed to determine the  
35 location, extent and quality of the water resources of the State  
36 and plan for their future use to meet the needs of the citizens of  
37 the State;

38 f. Standards and procedures to be followed to maintain the  
39 minimum water levels and flow necessary to provide adequate  
40 water quantity and quality;

41 g. Standards and procedures to determine and define a water  
42 supply emergency in the State or any region thereof and the pro-  
43 cedures and requirements to be followed to alleviate that  
44 emergency;

45 h. Standards and procedures governing the maintenance of  
46 adequate capacity by, and withdrawal limits for, water purveyors.

1 5. a. The department in developing the permit system established  
2 by this act shall:

3 (1) Permit privileges previously allowed pursuant to lawful  
4 legislative or administrative action, except that the department  
5 may impose limits and conditions thereon as may be deemed neces-  
6 sary to carry out the purposes of this act in a manner and to the  
7 extent consistent with applicable provisions of law. All diversion  
8 permits issued by the Water Policy and Supply Council prior to the  
9 effective date of this act shall remain in effect until modified by the  
10 department pursuant to this act. Persons having or claiming a  
11 diversion privilege allowed by legislative action including persons  
12 previously exempted from the requirement to obtain a permit, shall  
13 apply for a permit pursuant to this act within 1 year of the  
14 effective date of this act. All permits issued or modified pursuant to

15 this paragraph shall thereafter be deemed the sole and definitive  
16 evidence of such previously allowed privileges.

17 (2) Not require any person diverting 1,000 or fewer gallons of  
18 water per day or any person engaged in the business of growing  
19 agricultural crops or raising livestock who diverts 100,000 or fewer  
20 gallons of water per day to obtain a diversion permit.

21 b. Nothing in this act shall prevent the department from includ-  
22 ing, or require the department to include, the presently non-utilized  
23 existing privileges in the new or any future diversion permits  
24 issued to the present possessors of these privileges.

1 6. Except as provided by section 5 of this act, no person may  
2 divert any waters of the State or construct any building or  
3 structure which may require a diversion of water unless he obtains  
4 a diversion permit.

1 7. Every permit issued pursuant to this act shall include  
2 provisions:

3 a. Fixing the term of the permit;

4 b. Fixing the maximum allowable diversion, expressed both in  
5 terms of a daily and monthly diversion;

6 c. Identifying and limiting the use or uses to which the water  
7 may be put;

8 d. Requiring the diverter to meter the water being diverted and  
9 report the amount and quality of the water being diverted, except  
10 that commercial growers of agricultural crops and livestock may be  
11 granted the option of keeping a log or other appropriate records  
12 on the amount of water diverted;

13 e. Allowing the department to enter the diverter's facilities or  
14 property to inspect and monitor the diversion;

15 f. Allowing the department to modify the permit during water  
16 supply or water quality emergencies;

17 g. Requiring that all water diverted for a nonconsumptive use  
18 be returned to the water body designated by the department;

19 h. Allowing the transfer of a permit with the consent of the  
20 department, but only for the identical use of the waters by the  
21 transferee;

22 i. Governing the operations and maintenance of the specific  
23 facilities, equipment or premises not otherwise established in  
24 regulations because of the unique nature of the facilities, equip-  
25 ment or premises;

26 j. Permitting the department to modify, suspend or terminate  
27 the permit when it deems it necessary for the public interest, or for  
28 violations of its conditions, this act, regulations adopted or orders  
29 issued by the department.

1 8. The Board of Public Utilities shall fix just and reasonable rates  
2 for any public water supply system subject to its jurisdiction,  
3 necessary for that system to comply with an order issued by the  
4 department or the terms and conditions of a permit issued pursuant  
5 to this act.

1 9. Any expenditures necessary to comply with an order or permit  
2 issued by the department for construction, improvement, repair or  
3 rehabilitation of public water supply systems shall, for the pur-  
4 poses of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) be considered as  
5 expenditures mandated by State law.

1 10. The department shall, in accordance with a fee schedule  
2 adopted by regulation, establish and charge reasonable administra-  
3 tive fees, which fees shall be based upon, and not exceed, the  
4 estimated cost of processing, monitoring, administering and en-  
5 forcing the diversion permits. The department shall deposit the  
6 fees in the "Environmental Services Fund" created by P. L. 1975,  
7 c. 232 (C. 13:1D-30 et seq.). There shall be annually appropriated  
8 an amount equivalent to the amount anticipated to be collected as  
9 fees by the department for the administration of the water supply  
10 management program.

1 11. No person supplying or proposing to supply water to any  
2 other person shall have the power to condemn lands, water or  
3 water privileges for any new or additional source of ground or  
4 surface water until that person has first submitted an application  
5 diverting the source of the water to the department and the  
6 department has approved the application subject to such condi-  
7 tions as it may determine to be necessary to protect the public  
8 health and welfare.

1 12. a. The department is authorized and directed to maintain  
2 current, a Statewide water supply master plan which will accurately  
3 reflect the quantity and quality of the waters of the State, the  
4 quantity and quality of the waters being used, the measures needed  
5 to protect the water supply and insure an efficient distribution of  
6 the water supply, and the State's future water needs and the  
7 measures needed to meet those needs.

8 b. The department shall implement the Statewide water supply  
9 master plan by incorporating its recommendations into its water  
10 supply management program policies and regulations.

1 13. a. The department shall promulgate and keep current a plan  
2 for the conservation and allocation of the water resources of the  
3 State under emergency circumstances. These emergency circum-  
4 stances shall include, but are not limited to: a determination that  
5 the water resources, either throughout the State or in certain areas

6 of the State, are insufficient to meet the needs of the people in the  
7 State or in those particular areas affected by the shortages; and a  
8 determination that the quality of waters, either throughout the  
9 State or in certain areas of the State, is unsatisfactory.

10 b. In emergency circumstances, either throughout the State or in  
11 certain areas of the State, the department is authorized to monitor  
12 diversions, impose conditions on existing permits, refrain from  
13 granting any new permits, mandate the interconnections of water  
14 supplies and water supply systems and order the transfer of water  
15 from system to system, whether in public or private ownership,  
16 without notice or hearing, notwithstanding the provisions of sec-  
17 tion 15 of this act, issue orders, and take other action which it  
18 deems necessary to protect the public health and welfare. Orders of  
19 the department implementing this section shall be upon fair com-  
20 pensation, reasonable rates and just and equitable terms to be  
21 prescribed by the Board of Public Utilities upon notice and hearing  
22 which may take place subsequent to the order and compliance with  
23 the order.

24 c. The department is authorized to require water purveyors, and  
25 said surveyors are authorized and required, to impose and collect  
26 surcharges and penalties designed to reduce the use of water during  
27 emergencies, which surcharges and penalties may be established  
28 by the department. Disposition of revenues collected pursuant to  
29 this subsection shall be subject to the direction of the Board of  
30 Public Utilities.

1 14. When the department determines that the developed water  
2 supply available to a water purveyor is inadequate to service its  
3 users with an adequate supply of water under a variety of condi-  
4 tions, the department may order the water purveyor to develop or  
5 acquire, within a reasonable period of time, additional water sup-  
6 plies sufficient to provide that service.

1 15. The department is authorized to:

2 a. Perform any and all acts and issue such orders as are neces-  
3 sary to carry out the purposes and requirements of this act;

4 b. Administer and enforce the provisions of this act and rules,  
5 regulations and orders promulgated, issued or effective hereunder;

6 c. Present proper identification and then enter upon any land or  
7 water for the purpose of making any investigation, examination or  
8 survey contemplated by this act;

9 d. Subpena and require the attendance of witnesses and the  
10 production by them of books and papers pertinent to the investiga-  
11 tions and inquiries the department is authorized to make under  
12 this act, and examine them and such public records as shall be  
13 required in relation thereto;

14 e. Order the interconnection of public water supply systems,  
15 whether in public or private ownership, whenever the department  
16 determines that the public interest requires that such interconnec-  
17 tion be made, and require the furnishing of water by means of that  
18 system to another system, but no order shall be issued before  
19 comments have been solicited at a public hearing, notice of which  
20 has been published at least 1 week before the hearing, in one  
21 newspaper circulating generally in the area served by each involved  
22 public water supply system, called for the purpose of soliciting  
23 comments on the proposed action;

24 f. Order any person diverting water to improve or repair its  
25 water supply facilities so that water loss is eliminated so far as  
26 practicable, safe yield is maintained and the drinking water quality  
27 standards adopted pursuant to the "Safe Drinking Water Act,"  
28 P. L. 1977, c. 224 (C. 58:12A-1 et seq.) are met;

29 g. Enter into agreements, contracts, or cooperative arrangements  
30 under such terms and conditions as the department deems appro-  
31 priate with other states, other State agencies, Federal agencies,  
32 municipalities, counties, educational institutions, investor owned  
33 water companies, municipal utilities authorities, or other organiza-  
34 tions or persons;

35 h. Receive financial and technical assistance from the Federal  
36 Government and other public or private agencies;

37 i. Participate in related programs of the Federal Government,  
38 other states, interstate agencies, or other public or private agencies  
39 or organizations;

40 j. Establish adequate fiscal controls and accounting procedures to  
41 assure proper disbursement of and accounting for funds appro-  
42 priated or otherwise provided for the purpose of carrying out the  
43 provisions of this act;

44 k. Delegate those responsibilities and duties to personnel of the  
45 department as deemed appropriate for the purpose of administer-  
46 ing the requirements of this act;

47 l. Combine permits issued pursuant to this act with permits  
48 issued pursuant to any other act whenever that action would  
49 improve the administration of both acts;

50 m. Evaluate and determine the adequacy of ground and surface  
51 water supplies and develop methods to protect aquifer recharge  
52 areas.

1 16. Rules, regulations and orders issued pursuant to this act  
2 have the force and effect of law. If any person violates any of the  
3 provisions of this act or any rule, regulation or order promulgated  
4 or issued pursuant to the provisions of this act, the department may

5 institute a civil action in a court of competent jurisdiction for in-  
 6 junctive relief to enforce said provisions and to prohibit and pre-  
 7 vent that violation and the court may proceed in the action in a  
 8 summary manner. Any person who violates the provisions of this  
 9 act or any rule, regulation or order promulgated pursuant to this  
 10 act shall be liable to a civil administrative penalty of not more than  
 11 \$5,000.00 for each offense to be imposed by the department pursuant  
 12 to standards adopted in regulations; or a civil penalty of not more  
 13 than \$5,000.00 for each offense, to be collected in a civil action by a  
 14 summary proceeding under "the penalty enforcement law" (N. J. S.  
 15 2A:58-1 et seq.) or in any case before a court of competent jurisdic-  
 16 tion wherein injunctive relief has been requested. The Superior  
 17 Court and county district court shall have jurisdiction to enforce  
 18 the penalty enforcement law. If the violation is of a continuing  
 19 nature, each day during which it continues shall constitute an addi-  
 20 tional, separate and distinct offense. The department is authorized  
 21 to compromise and settle any claim for a penalty under this section  
 22 in such amount in the discretion of the department as may appear  
 23 appropriate and equitable under all of the circumstances.

1 17. All of the powers, duties and functions of the Water Policy  
 2 and Supply Council are transferred to the Department of Environ-  
 3 mental Protection. Whenever the term "Water Policy and Supply  
 4 Council" occurs or any reference is made thereto in any law, con-  
 5 tract or document, administrative or judicial determination, or  
 6 otherwise, it shall be deemed to mean or refer to the Department of  
 7 Environmental Protection.

1 18. R. S. 58:2-2 is amended to read as follows:

2 58:2-2. Payment for water diverted as provided in [section]  
 3 R. S. 58:2-1 [of this title] shall be deemed to be a license and its  
 4 amount shall be fixed by the [State Water Policy Commission]  
 5 department at a rate of not less than \$1.00 nor more than \$10.00 per  
 6 million gallons. If at all times an amount equal to the average daily  
 7 flow for the driest month, as shown by the existing records, or in  
 8 lieu thereof 175,000 gallons daily for each square mile of unappro-  
 9 priated watershed above the point of diversion, shall be allowed to  
 10 flow down the stream. The [commission] department shall fix the  
 11 minimum rate and may increase the rate proportionally as a less  
 12 amount is allowed to flow down the stream below the point of  
 13 diversion, due account being taken in fixing said increase both of the  
 14 duration and amount of the deficiency. The aforesaid 125,000  
 15 gallons daily for each square mile of unappropriated watershed  
 16 shall be additional to the dry-season flow or any part thereof which  
 17 may be allowed to flow down from any appropriated watershed or  
 18 watersheds above the point of diversion.

19 Water diverted within the corporate limits of a municipality for  
20 manufacturing and fire purposes only and returned without pollu-  
21 tion to the stream from which it was taken within said corporate  
22 limits shall not be reckoned in making up the aggregate amount  
23 diverted.

24 Any party aggrieved by the action of the **[commission]** *depart-*  
25 *ment* upon filing written complaint on or before March twentieth,  
26 shall be heard and permitted to give evidence of the facts, and the  
27 sum fixed may be changed, reduced, or cancelled, as the facts may  
28 warrant.

1 19. R. S. 58:2-3 is amended to read as follows:

2 58:2-3. The **[State Water Policy Commission]** *department* shall  
3 annually certify to the State Comptroller, as soon as practicable  
4 after January first, and not later than February fifteenth, the  
5 names of all municipalities, corporations or private persons owing  
6 money to the State for the diversion of water during the preceding  
7 year, with the amounts so due.

8 The State Comptroller shall promptly notify said municipalities,  
9 water companies or persons of their indebtedness to the State, and  
10 if said amounts are not paid to the State Treasurer on or before  
11 July first of the same year, the State Comptroller shall certify to  
12 the Attorney-General for collection the names of the delinquents  
13 and the amounts due from each, and the Attorney-General shall take  
14 immediate steps to collect the same in the name of the State.

15 All sums received as herein provided shall be **[paid into the**  
16 **General State Fund and the expenses of the administration of this**  
17 **chapter shall be included in the annual appropriations bill]**  
18 *deposited to the credit of the State and deemed as part of the*  
19 *Environmental Services Fund. The Legislature shall annually*  
20 *appropriate an amount equivalent to the amount anticipated to be*  
21 *collected as sums charged under this section in support of the water*  
22 *management programs.*

1 20. R. S. 58:2-4 is amended to read as follows:

2 58:2-4. In the case of the condemnation of subsurface, well or  
3 percolating water supplies, there shall be charged by the State a  
4 fee of \$1.00 per million gallons from that portion of the supply for  
5 the acquisition of which the State's right of eminent domain is  
6 exercised for all water diverted, which charge shall be certified to  
7 the State Comptroller by the **[State Water Policy Commission]**  
8 *department* and its collection shall be enforced in the same manner  
9 as hereinbefore in this chapter provided in the case of excess  
10 diversion of surface water supplies.



1 21. R. S. 58:2-5 is amended to read as follows:

2 58:2-5. Nothing in this chapter shall be construed to confer upon  
3 any municipality, corporation or person, any franchise not already  
4 possessed by said municipality, corporation or person, but the  
5 approval of the [commission] *department* contained in its decision  
6 as provided in this chapter, shall constitute the assent of the State  
7 to the diversion of water as against the State in accordance with  
8 the terms of said decision.

1 22. Any rules and regulations promulgated pursuant to any  
2 statutes repealed by this act shall remain in effect until superseded  
3 by rules and regulations promulgated pursuant to this act. How-  
4 ever, all such rules and regulations shall be reviewed and revised  
5 where necessary by the department within 2 years of the enact-  
6 ment of this act.

1 23. The following are repealed:

2 R. S. 58:1-2 through R. S. 58:1-25;

3 R. S. 58:1-28 through R. S. 58:1-34;

4 R. S. 58:3-1;

5 R. S. 58:6-1 through R. S. 58:6-5;

6 P. L. 1942, c. 24 (C. 58:1-25.1 through 58:1-25.25);

7 P. L. 1963, c. 181 § 1-14, 16, 17 (C. 58:1-35 through 58:1-50);

8 P. L. 1947, c. 375 (C. 58:4A-1 through 58:4A-4);

9 P. L. 1945, c. 22, § 9 (C. 13:1A-9);

10 P. L. 1948, c. 448, § 49, 50 (C. 13:1B-49 to 50).

1 24. This act shall take effect immediately.

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*Sponsor's* STATEMENT

Citizens of New Jersey face enormous problems in regard to the waters of the State. Existing potable water shortages in critical areas, compounded by ever-increasing discoveries of contamination of surface waters and ground waters, mandate the enactment of a comprehensive water supply management act. Lack of adequate emergency powers to alleviate periods of drought, additionally point out the need for revision of existing ineffective and archaic laws.

For these reasons, this bill authorizes the Department of Environmental Protection to establish a comprehensive water supply program which will ensure an adequate quantity and quality of water for the present and future citizens of the State. This program will include a uniform permit and fee system, procedures whereby holders or claimants of water diversion privileges are brought within the permit system, provisions to monitor the water

supply of the State to gather information for planning for the future and enforcing the present program, power to order diverters and water suppliers to take the actions necessary to provide an adequate quantity and quality of water, and the power to plan for emergencies and implement those plans when emergencies arise.

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S1611 (4)

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

**SENATE, Nos. 1611 and 1613**

**STATE OF NEW JERSEY**

DATED: JUNE 15, 1981

As originally introduced, Senate Bill No. 1611, the "Water Supply Management Act" provided for a revamp of the existing permitting and regulatory authority of the Department of Environmental Protection concerning the diversion of the ground and surface waters of this State. Senate Bill No. 1613, as originally introduced, subjected public water companies to the rate-making jurisdiction of the Board of Public Utilities.

The Senate Committee Substitute for both Senate Bill No. 1611 and Senate Bill No. 1613 was drafted subsequent to the four public hearings and several public meetings held concerning these measures. As a result, the concept and provisions of Senate Bill No. 1613 were entirely abandoned, and substantial and significant revisions to the provisions of Senate Bill No. 1611 were adopted.

The provisions of the Committee Substitute would: (1) replace the provisions of Senate Bill No. 1613 (subjecting public water companies to the rate-making jurisdiction of the Board of Public Utilities) with a requirement that the Division of Local Government Services in the Department of Community Affairs, when reviewing the annual budget of a public water company, certify that adequate funds are included to make any improvements which the Department of Environmental Protection determines, pursuant to existing statutory authority re-enacted by this bill, to be necessary to assure that the water company can provide adequate service to its customers. The committee believes that this approach will satisfy the purpose of Senate Bill No. 1613 (insuring adequate service by public water companies) without needlessly imposing the financial and procedural burdens of treating these companies as public utilities; (2) provide for the declaration, by the Governor, of a water supply emergency in one or more of the areas of the State; (3) authorize the department to exercise certain specific powers during an emergency; (4) direct the department to adopt an Emergency Water Supply Allocation Plan to be implemented during an emergency; (5) provide for due process and compensation with respect to the exercise of emergency departmental powers; (6) establish 100,000 gallons per day, rather than 10,000, as the threshold for the

requirement for a diversion permit; (7) afford holders of existing diversion privileges the opportunity to register those privileges and retain the right to divert the amount of water currently diverted, subject to contract, or reasonably required for a demonstrated future. This procedure, in the opinion of the committee, will insure adequate notice and opportunity to be heard to these holders, and precludes the need for compensation for diversion privileges which were not, and could not, have been exercised by the holder thereof, thereby making this water available to the citizens of this State; (8) establish a 5-year water usage certification program for farmers, in lieu of diversion permits; (9) provides for the adoption and periodic revision of a New Jersey Statewide Water Supply Plan; and (10) establish a Water Supply Advisory Council to provide guidance on the Water Supply Plan, the diversion permit program, and the Emergency Water Supply Allocation Plan.

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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

AUGUST 13, 1981

JIM STAPLES -- 2-3541

Governor Brendan Byrne today signed two bills which he said "will bring an overdue modernization to our system of dealing with water supply and quality, and provide the money to assure adequate supplies wherever and whenever they are needed."

The bills, S-1610 and SCS-1611, were both sponsored by Senator Frank Dodd (D-Essex).

S-1610, "The Water Supply Bond Act of 1981," sets a public vote next November 3 on a \$350 million bond issue to finance urgently needed water supply improvements throughout New Jersey.

"Now we in New Jersey can vote on our own future, in terms of meeting our water needs. We've had plenty of evidence over the past year that we are in dire need of water improvements, and with voter approval of this bond issue we will be able to get on with the job," Governor Byrne said.

SCS-1611, <sup>S1613</sup> "The Water Supply Management Act," makes the Department of Environmental Protection (DEP) responsible for allocating water supplies, enforcing emergency powers in times of water supply shortages and regulating how water supplies are protected and managed over the long term.

"In addition to projects to develop new sources of water, the rehabilitation of the leaking systems in our older cities is a top priority," Governor Byrne said.

"DEP is moving to adopt a statewide Water Supply Master Plan, as required by the new Water Supply Management Act, and projects identified in that plan will be recommended to the Legislature for construction," Byrne said.

The funds from the bond issue is earmarked for two main purposes: to upgrade existing but substandard supply systems and to plan, design, acquire and build other needed supply facilities.

-more-

S1611 (5)

The Bond Act specifies that the \$350 million is to be used to meet goals established in the statewide Water Master Plan, now undergoing revisions stemming from public hearings.

The Master Plan, which Governor Byrne ordered, identifies project needs and priorities to guarantee all of New Jersey adequate supplies of potable water beyond the year 2000. The new Water Supply Management Act requires that the Master Plan be upgraded at least every five years, and that its first version be adopted within 180 days.

DEP Commissioner Jerry Fitzgerald English said, "Examples of necessary projects this bond issue can finance are new reservoirs, needed in the northern part of our State and the investigation and development of groundwaters in southern New Jersey."

"At the same time, the bond issue can provide money for loans so repairs can be made to existing but decrepit water distribution systems. Many of these older systems are leaking badly and we are needlessly losing much of our precious water supply," she said.

The Water Supply Management Act empowers the Governor to proclaim a State of water emergency upon the advice of the DEP Commissioner. DEP now has 180 days to adopt an Emergency Water Supply Allocation Plan as the basis for imposing emergency water use restrictions and setting water use priorities.

In addition, it empowers the DEP Commissioner to allocate, or reallocate, the waters of the State to meet present and future needs. This includes issuing permits to diverters of more than 100,000 gallons per day, with close controls to assure only approved uses.

When DEP judges a water purveyor's developed water supply to be inadequate to service its customers, the Department may order the purveyor to develop or acquire additional supplies of water. Improvements of substandard or leaking systems may also be ordered.

DEP can order interconnections between public water supply systems, whether publicly or privately owned, whenever it determines that public interest requires such action. The new law provides for a public hearing process for this and other actions.

Violations of the new law can result in maximum civil administrative penalties of \$5,000 per offense.

All powers, duties and functions of the Water Policy and Supply Council are transferred to the DEP by the new law.

A Water Supply Advisory Council of seven members is established by the law, with all appointments to be made by the Governor and approved by the Senate. The membership will represent agriculture, industrial and commercial water users, investor-owned water companies, municipal or county water companies, private watershed protection associations and the academic community.

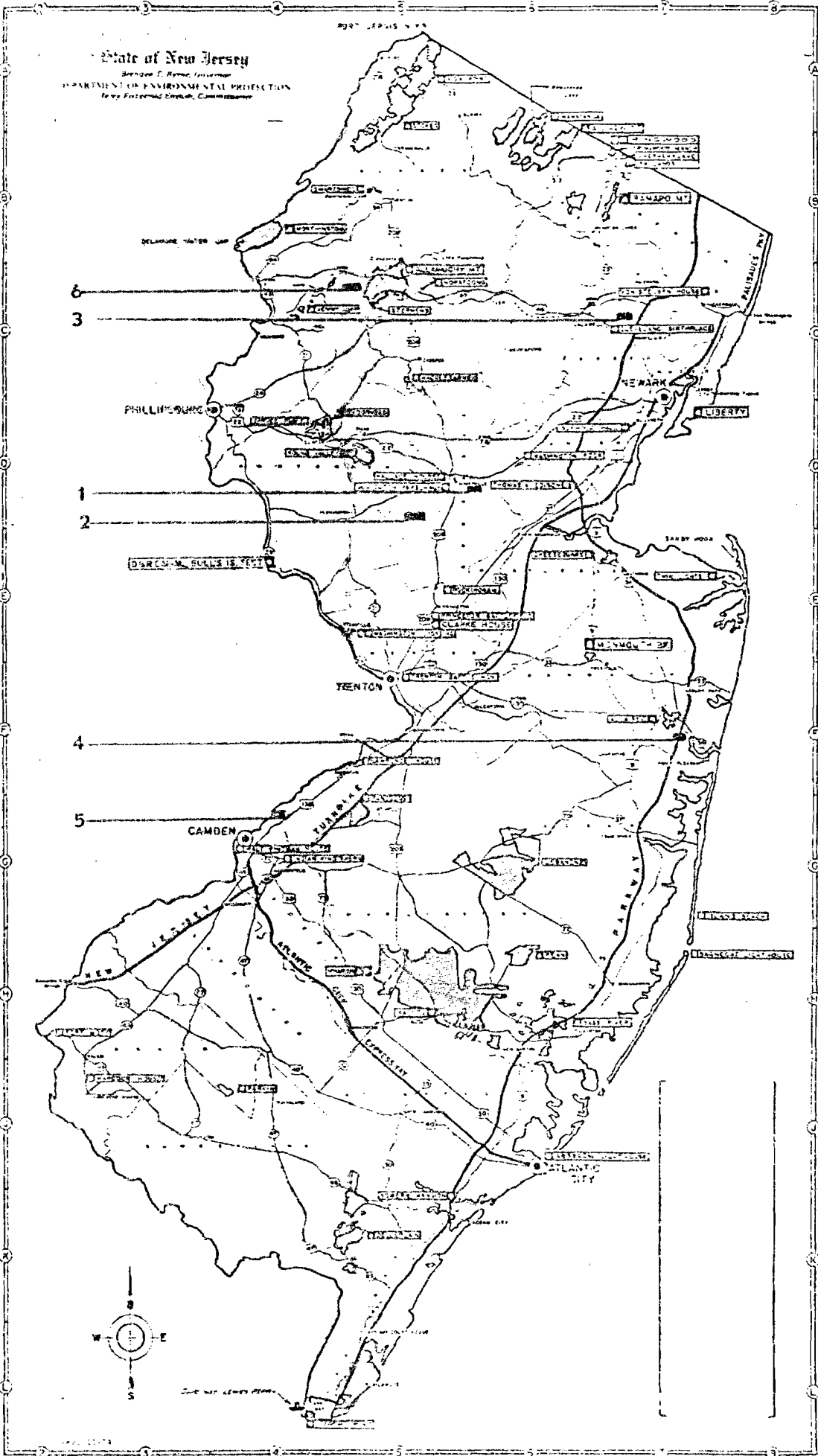
# # # #

WATER SUPPLY CONSTRUCTION PROJECTS

ATTACHMENT I

att: (1) to 31611





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REHABILITATION OF WATER SUPPLY SYSTEMS

PURPOSE: \$65 million is requested for grants or loans for the rehabilitation or repair of antiquated or damaged water supply systems.

DESCRIPTION: The New Jersey Statewide Water Supply Plan (NJSWSP) survey of water purveyors established that \$330 million is needed throughout the State for the rehabilitation or repair of antiquated or damaged water supply systems. The State, in supporting rehabilitation efforts through a grant program, can realize significant benefits from this action in terms of:

- Water conservation through leakage reduction
- Increased system reliability
- Increased support for urban revitalization and economic development

We have found, for example, that 40% of the total water transported by the Camden Water Department is unaccounted for due to leakage, unauthorized use and inaccurate metering. The rehabilitation cost of this system is estimated at \$5.56 million. Jersey City Water Department has proposed a rehabilitation program at a total cost of \$27.6 million.

Aside from the repair and construction of distribution systems in our older urban areas, other communities have experienced serious problems with

att: (2) 7-2-64

small water systems. While these problems are of a lesser magnitude in terms of population, the systems' deficiencies may incur a greater potential impact on the populations served.

COST:

\$65 million

att. to 31611

RARITAN-PASSAIC PIPELINE

1

Location

An intake would be located on the Raritan River downstream of the confluence of the Raritan and Millstone Rivers.

Purpose

To divert surplus supply of Spruce Round-Round Valley waters to Northeastern New Jersey.

Description

The proposed intake would pump the required flows through a pipeline to the Passaic Basin. The proposed route would follow the Raritan River westerly to the vicinity of confluence of north and south Branches of the Raritan River then northerly along local road to Route 206 passed the intersection of Interstate Route 78. The pipeline would then follow along railroad and local road through Peapack Gladstone to Ralston. A booster pump at Ralston would then transmit the flow through the pipe along Route 24 to a ridge point of the Raritan and Passaic Basins divide. A discharge facility at this location would release the pumped flow to Whippany River to the north and the Passaic River to the south. There is however a possibility of utilizing Washington Valley Reservoir as the terminal storage on the Whippany River.

Cost of Project

\$85 million without Washington Valley Reservoir

\$115 million with Washington Valley Reservoir

att: (5) to S1611

RARITAN CONFLUENCE RESERVOIR, PUMPING STATION & FORCE MAIN

2

LOCATION

The confluence reservoir will be located at the confluence of the North and South branch of the Raritan River.

PURPOSE

The purpose of the project is to deliver augmented water supply from Round Valley to the Raritan River at the confluence and meet downstream statutory and water needs during low flow or drought periods, also to augment the storage levels in Round Valley by pumping from the Raritan River at the confluence during high natural flow conditions in the river.

DESCRIPTION

The reservoir would be connected by a force main and pumping station to the existing pipeline at White House Station. During periods of high flow in the Raritan River, the confluence pumping station, proposed to be located on the westerly side of South branch of the Raritan River near its confluence with Holland Brook, would pump water through the force main for storage in Round Valley Reservoir for use during drought conditions. The proposed route of the force main would follow the right of way of the CNJ Railroad. This pipeline route, starting from the pumping station on the westerly side of South Branch Raritan, would proceed northerly to Route 202 along the western fringes of the reservoir. After crossing the North Branch Raritan at Route 202, the pipeline would follow a northwesterly route to the Railroad Bridge on the North Branch Raritan and from there on follow the railroad and meet the existing pipeline at White House.

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RARITAN CONFLUENCE. (CONT)

YIELD

The project would provide an additional yield of 60 mgd to the present yield of Spruce Run/Round Valley System.

MAIN FEATURE

The force main pumping station operation in conjunction with the Raritan Confluence Reservoir would provide better water supply operational control as it relates to both downstream releases and pumpage back to Round Valley.

CCST

\$55 million

DATE: (7) 10 16/11

PROJECT TITLE: Great Notch Multiple Exchange Facility

3

YIELD: No additional yield will be provided to the water systems involved in the project.

COST: \$10 million

DESCRIPTIVE INFORMATION: The aqueducts of four major water purveyors run through the Great Notch and converge within close proximity to one another. The four purveyors are: Jersey City Water Division; Newark Water Department, North Jersey District Water Supply Commission; and Passaic Valley Water Commission.

Individual links exist among each of the above systems but there is no coordinated storage facility to move water about in adequate volumes with reliable pressure maintenance. The proposed facility will consist of additional pipe and pump works connected to a common storage tank or reservoir, thereby providing a substantial amount of back-up capabilities during emergency situations.

att 8 to 16/11

PROJECT TITLE: Manasquan Reservoir

4

YIELD: 35 MGD

COST: \$40 million

LOCATION: Howell and Wall Townships, Monmouth County

DESCRIPTIVE INFORMATION: The reservoir system as presently conceived will consist of two separate reservoirs connected by a single force main. We will utilize the main stem of the Manasquan River for the relatively smaller Allaire Intake Reservoir from which water will be pumped into the larger Oak Glen Storage Reservoir. DEP has purchased both reservoir sites and design is underway.

The area has experienced considerable growth in recent years as well as significant declines in groundwater levels. These levels are approximately 180 feet below sea level and the decline is continuing thus exhibiting the need to augment existing supplies.

att: (1) to 51611



DELANCO INTAKE

5

LOCATION: This pumping intake, with a treatment plant, at the Delaware River would be located at Delanco about 10 miles northeast of Camden.

PURPOSE: Contamination could force the Camden Water Department to replace up to 10 mgd of its well supplies in the very near future. With the heavy overpumping, approximately 50% of the recharge is believed to come directly from the Delaware River. If present overpumping continues, this figure will rise and an estimated 100 - 160 foot decline in the water table is predicted. This project is proposed to replace Camden well fields badly polluted with industrial contamination and salt water intrusion and to reduce pumping of the Potomac-Raritan-Magothy Aquifer in the area.

DESCRIPTION: A transmission pipeline from the treatment plant would transmit the water to Camden City's well fields and distribution system.

YIELD: 25 mgd

COST: \$24 million

att: (10) to S1611

HACKETTSTOWN

6

LOCATION: The proposed impoundments on the Musconetcong River cover about 400 acres in Allamuchy Township (Warren County), 500 acres in Byram Township (Sussex County) and 820 acres in Mt. Olive Township (Morris County).

PURPOSE: To provide water for the Delaware Basin to compensate at low flow periods, for New Jersey's withdrawals from the Delaware River. The Supreme Court Decree of 1954 allocated the Basin's water among its four states (New York, New Jersey, Pennsylvania and Delaware) including diversion rights of 800 mgd to New York City and 100 mgd to New Jersey via the Delaware Raritan Canal to Central Jersey. To maintain this allocation and be able to make further use of Delaware River water, such as with the proposed Delanco Intake for Camden, New Jersey is proposing to provide additional water to the Basin through the Hackettstown Reservoir project.

YIELD: Annual Average Yield - 44 mgd (68 cfs)  
Summer Augmentation Yield - 84 mgd (130 cfs)

Att: 11 to 2/11

*Handwritten:* Musconetcong River

DESCRIPTION: The project would comprise of two main dams on the Musconetcong River, one at the lower end of the impoundment approximately 1,800 feet downstream of the existing Saxton Falls dam. A second dam is proposed approximately 2,270 feet upstream, of Interstate 80 forming another impoundment. Waterloo Village would be preserved under this scheme. The two sections of the reservoirs thus formed will be hydraulically connected through a channel spillway, discharge carrier and twin pipes.

UPPER IMPOUNDMENTS:

Pool Elevation - 685 feet above M.S.L.  
Surface Area - 710 acres  
Length of Dam - 1,900 feet  
Height of Dam - 65 feet (max.)  
Length of side channel spillway - 800 feet  
Storage at pool level - 4.6 BG

LOWER IMPOUNDMENTS:

Pool Elevation - 675 feet above M.S.L.  
Surface Area - 1,010 acres  
Length of Dam (Spillway) - 875 feet  
Height of Dam - 65 feet (max.)  
Storage at pool level - 7.8 BG

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