

58:11B-6

LEGISLATIVE HISTORY CHECKLIST
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(Wastewater Treatment Trust)

NJSA: 58:11B-6

LAWS OF: 1994 **CHAPTER:** 107

BILL NO: A1816

SPONSOR(S): Bodine

DATE INTRODUCED: May 19, 1994

COMMITTEE: **ASSEMBLY:** Appropriations
SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 27, 1994
SENATE: June 30, 1994

DATE OF APPROVAL: August 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 1816

STATE OF NEW JERSEY

INTRODUCED MAY 19, 1994

By Assemblyman BODINE

1 AN ACT concerning the bonded indebtedness of the New Jersey
2 Wastewater Treatment Trust, and amending P.L.1985, c.334.

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

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

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

22 b. Whether or not the bonds, notes or other obligations of the
23 trust are of a form and character as to be negotiable instruments
24 under the terms of Title 12A of the New Jersey Statutes, the
25 bonds, notes and other obligations are made negotiable
26 instruments within the meaning of and for the purposes of Title
27 12A, subject only to the provisions of the bonds, notes and other
28 obligations for registration.

29 c. Bonds, notes or other obligations of the trust shall be
30 authorized by a resolution or resolutions of the trust and may be
31 issued in one or more series and shall bear any date or dates,
32 mature at any time or times, bear interest at any rate or rates of
33 interest per annum, be in any denomination or denominations, be
34 in any form, either coupon, registered or book entry, carry any
35 conversion or registration privileges, have any rank or priority, be
36 executed in any manner, be payable in any coin or currency of the
37 United States which at the time of payment is legal tender for
38 the payment of public and private debts, at any place or places
39 within or without the State, and be subject to any terms of
40 redemption by the trust or the holders thereof, with or without
41 premium, as the resolution or resolutions may provide. A
42 resolution of the trust authorizing the issuance of bonds, notes or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 9, 1994.

1 other obligations may provide that the bonds, notes or other
2 obligations be secured by a trust indenture between the trust and
3 a trustee, vesting in the trustee any property, rights, powers and
4 duties in trust consistent with the provisions of P.L.1985, c.334
5 (C.58:11B-1 et seq.) as the trust may determine.

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

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

29 e. Bonds, notes or other obligations of the trust may be issued
30 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.)
31 without obtaining the consent of any department, division, board,
32 bureau or agency of the State, and without any other proceedings
33 or the happening of any other conditions or things, other than
34 those consents, proceedings, conditions or things which are
35 specifically required by P.L.1985, c.334 (C.58:11B-1 et seq.).

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

1 obligations.

2 g. The aggregate principal amount of bonds, notes or other
3 obligations, including subordinated indebtedness of the trust, shall
4 not exceed \$600,000,000.00, except that, for the purpose of
5 implementing the Fiscal Year [1994] 1995 Financial Plan as
6 approved by the Legislature pursuant to SCR No. [118 of 1993]
7 of 1994 and ACR No. [138 of 1993] 178¹ of 1994 1, and in
8 compliance with subsection j. of this section¹, the trust may
9 exceed the foregoing limitations. In computing the foregoing
10 limitations there shall be excluded all the bonds, notes or other
11 obligations, including subordinated indebtedness of the trust,
12 which shall be issued for refunding purposes, whenever the
13 refunding shall be determined to result in a debt service savings,
14 as hereinafter provided:

15 (1) Upon the decision by the trust to issue refunding bonds, and
16 prior to the sale of those bonds, the trust shall transmit to the
17 Joint Appropriations Committee's Subcommittee on Transfers, or
18 its successor, a report that a decision has been made, reciting the
19 basis on which the decision was made, including an estimate of
20 the debt service savings to be achieved and the calculations upon
21 which the trust relied when making the decision to issue
22 refunding bonds. The report shall also disclose the intent of the
23 trust to issue and sell the refunding bonds at public sale and the
24 reasons therefor.

25 (2) The Joint Appropriations Committee's Subcommittee on
26 Transfers shall have the authority to approve or disapprove the
27 sales of refunding bonds as included in each report submitted in
28 accordance with paragraph (1) of this subsection. The
29 subcommittee shall notify the trust in writing of the approval or
30 disapproval as expeditiously as possible.

31 (3) No refunding bonds shall be issued unless the report has
32 been submitted to and approved by the Joint Appropriations
33 Committee's Subcommittee on Transfers as set forth in
34 paragraphs (1) and (2) of this subsection.

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

42 (5) The subcommittee shall review all information and reports
43 submitted in accordance with this subsection and may, on its own
44 initiative, make observations to the trust, or to the Legislature,
45 or both, as it deems appropriate.

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

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

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

7 (2) Pledge of rentals, receipts and other revenues to be derived
 8 from leases or other contractual arrangements with any person or
 9 entity, public or private, including one or more local government
 10 units, or a pledge or assignment of those leases or other
 11 contractual arrangements and the rights and interest of the trust
 12 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
 21 a pledge or assignment of mortgages made to the trust by any
 22 person or entity, public or private, including one or more local
 23 government 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, 2005.

27 1j. For the purpose of implementing the Fiscal Year 1995
 28 Financial Plan as approved by the Legislature pursuant to SCR
 29 No. of 1994 and ACR No. 78 of 1994, the trust shall provide the
 30 Senate Budget and Appropriations and the Assembly
 31 Appropriations Committee, or their successors, with a detailed
 32 statement by the trust of the costs of issuance of any bonds
 33 issued to implement the Fiscal Year 1995 Financial Plan, within
 34 thirty days of the issuance thereof, with specific reference,
 35 where applicable, to itemized costs for the following services:

36 (1) bond counsel, tax counsel and special counsel;

37 (2) financial advisor;

38 (3) paying agent and registrar;

39 (4) rating agencies;

40 (5) official statement printing;

41 (6) bond printing;

42 (7) trustee;

43 (8) credit enhancement;

44 (9) liquidity facility; and

45 (10) miscellaneous issuance costs; and

46 a calculation of underwriters' spread, broken down into the
 47 following components, and accompanied by a list of underwriters'
 48 spreads from recent comparable bond issues:

49 (1) management fees;

50 (2) underwriters' fees;

51 (3) selling concessions;

52 (4) underwriters' counsel; and

53 (5) other costs.¹

54 (cf: P.L.1993, c.194, s.1)

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

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

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

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

23 i. The trust shall not issue any bonds, notes or other
24 obligations, or otherwise incur any additional indebtedness, on or
25 after November 5, 2005.

26 (cf: P.L.1993, c.194, s.1)

27 2. This act shall take effect immediately.

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STATEMENT

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32 This bill would suspend for one year the debt ceiling established
33 under P.L.1985, c.334, which limits the aggregate principal
34 amount of bonded indebtedness, including subordinated
35 indebtedness, that the New Jersey Wastewater Treatment Trust
36 may incur to \$600,000,000.00.

37 Specifically, this bill would authorize the Trust to incur bonded
38 indebtedness in excess of the current debt ceiling in order to
39 implement the Trust's Fiscal Year 1995 Financial Plan as
40 approved by the Legislature pursuant to SCR No. of 1994 and
41 ACR No. of 1994, and as embodied in Senate Bill Nos. and of
42 1994 and Assembly Bill Nos. and of 1994. Under the Fiscal
43 Year 1995 Financial Plan, the Trust and the Department of
44 Environmental Protection would make loans to local governments
45 for the construction of eligible wastewater treatment system
46 projects.

47 Senate Bill No. of 1994 and Assembly Bill No. of 1994
48 would authorize the New Jersey Wastewater Treatment Trust to
49 expend up to \$60,000,000, and any unexpended balances from the
50 authorizations made by P.L.1988, c.132, P.L.1989, c.190,
51 P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37 and P.L.1993,
52 c.192 to provide loans with an interest rate at or below the
53 prevailing market rate to local government units for up to 50% of
54 the costs of eligible wastewater treatment system projects. The

1 eligible projects are those included in the "State Fiscal Year 1995
2 Project Priority List" and two projects that received loans in the
3 past and each of which now require a supplemental loan in order
4 to meet actual costs.

5 A companion bill (Senate Bill No. of 1994 and Assembly Bill
6 No. of 1994) would appropriate up to \$50,000,000 in federal
7 moneys received pursuant to the federal "Water Quality Act of
8 1987," and from fees and penalties from the federal "Marine
9 Protection, Research and Sanctuaries Act of 1972," to the
10 Department of Environmental Protection. The department is to
11 use these moneys to provide zero interest loans to local
12 governments for the remaining 50% of eligible project costs or
13 for the supplemental costs of nine existing projects. These bills
14 together provide loan financing for 100% of the eligible cost of a
15 wastewater treatment system project: one-half of the loan
16 amount from the Trust with interest at or below the prevailing
17 market rate and one-half from a zero interest loan from the
18 department.

19 In 1993, the Legislature enacted P.L.1993, c.194, which
20 suspended for one year the \$600 million debt ceiling established
21 under P.L.1985, c.334 to permit the Trust to issue bonds in order
22 to implement the Fiscal Year 1994 Financial Plan.

23 By extending the debt ceiling suspension for another year, this
24 bill would permit the Trust to issue bonds in order to implement
25 the Fiscal Year 1995 Financial Plan.

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30 _____
31 Suspends for one year the debt ceiling on the amount of bonded
32 indebtedness that the New Jersey Wastewater Treatment Trust
may incur.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1816

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 2, 1994

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1816, with committee amendments.

Assembly Bill No. 1816, as amended, suspends, for one year, the debt ceiling established under P.L.1985, c.334, which limits the aggregate principal amount of bonded indebtedness, including subordinated indebtedness, that the New Jersey Wastewater Treatment Trust may incur to \$600 million.

This bill authorizes the trust to incur bonded indebtedness in excess of the current debt ceiling in order to implement the trust's Fiscal Year 1995 Financial Plan as approved by the Legislature pursuant to ACR No. 78 of 1994, and as embodied in Assembly Bill Nos. 1814 and 1815 of 1994. Under the Fiscal Year 1995 Financial Plan, the Trust and the Department of Environmental Protection would make loans to local governments for the construction of eligible wastewater treatment system projects.

Assembly Bill No. 1814 of 1994 authorizes the New Jersey Wastewater Treatment Trust to expend up to \$60 million, and any unexpended balances from the authorizations made by P.L.1988, c.132, P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37 and P.L.1993, c.192, to provide loans with an interest rate at or below the prevailing market rate to local government units for up to 50% of the costs of the eligible wastewater treatment system projects included in the "State Fiscal Year 1995 Project Priority List" and two projects that received loans in the past and each of which now require a supplemental loan in order to meet actual costs.

A companion bill (Assembly Bill No. 1815 of 1994) appropriates up to \$50 million in federal moneys received pursuant to the federal "Water Quality Act of 1987," and from fees and penalties from the federal "Marine Protection, Research and Sanctuaries Act of 1972," to the Department of Environmental Protection. The department is to use these moneys to provide zero interest loans to local governments for the remaining 50% of eligible project costs or for the supplemental costs of nine existing projects. These bills together provide loan financing for 100% of the eligible cost of a wastewater treatment system project: one-half of the loan amount from the trust with interest at or below the prevailing market rate and one-half from a zero interest loan from the department.

FISCAL IMPACT:

This bill does not make an appropriation; however, Assembly Bill No. 1814 of 1994 authorizes the New Jersey Wastewater Treatment Trust to expend up to \$60 million. The current cap on the debt that the New Jersey Wastewater Treatment Trust may incur is \$600 million, and the trust currently has outstanding approximately \$570 million in debt (the balance of the trust's outstanding debt declines as the loans it finances are repaid). By suspending the debt ceiling for a year, this bill permits the trust to issue bonds in order to implement the Fiscal Year 1995 Financial Plan.

COMMITTEE AMENDMENTS:

The committee amendments require that certain specific information concerning the cost of debt issued to implement the Fiscal Year 1995 Financial Plan be reported to the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors. These reports are for debt issued during the period the debt cap is suspended so that the Fiscal Year 1995 Financial Plan may be implemented.