

40A:26A-1

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 40A:26A-1 et seq.

('Municipal &
County Sewerage
Act')

LAWS OF: 1991

CHAPTER: 53

Bill No: A1561

Sponsor(s): Girgenti

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: Assembly: April 2, 1990

Senate: October 11, 1990

Date of Approval: March 8, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: Yes

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

LEGISLATIVE HISTORY COPY

(over)

Report, referred to in statements:

974.90 New Jersey. County and Municipal Government Study Commission
M966 New Jersey's local infrastructure: an assessment of
1984c needs. September, 1984. Trenton, 1984.

(pp.79-80 & p. XVIII)

KBG/SLJ

P.L.1991, CHAPTER 53, approved March 8, 1991
1990 Assembly No. 1561 (First Reprint)

1 AN ACT permitting counties and municipalities, either separately
2 or jointly with other counties or municipalities, to finance,
3 construct, acquire and operate sewerage facilities, repealing
4 various sections of the statutory law, and enacting chapter 26A
5 of Title 40A of the New Jersey Statutes.
6

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

9 1.

10 Title 40A
11 Chapter 26A

12 Municipal and County Sewerage Facilities

- 13 40A:26A-1. Short Title.
14 40A:26A-2. Legislative purpose.
15 40A:26A-3. Definitions.
16 40A:26A-4. Acquisition, construction or operation of
17 sewerage facilities by one or more local units.
18 40A:26A-5. Powers.
19 40A:26A-6. Surveys, maps and other costs; reimbursement
20 from bond funds.
21 40A:26A-7. Property damaged, repair, restoration or
22 compensation.
23 40A:26A-8. Relocation of public utility property
24 40A:26A-9. Bonds and security therefor.
25 40A:26A-10. Rates, rentals and other charges.
26 40A:26A-11. Connection fees.
27 40A:26A-12. Rates, rentals, connection fees, or other charges
28 as lien on real property; discontinuance of service.
29 40A:26A-13. Improvements financed by means of local
30 improvement assessments.
31 40A:26A-14. Local improvement assessments; procedure for
32 and manner of assessment and collection.
33 40A:26A-15. Bonds issued by one or more units; debt service
34 payments.
35 40A:26A-16. Sewerage facilities deemed a self-liquidating
36 purpose under certain circumstances.
37 40A:26A-17. Payments by local unit to another local unit.

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:
Assembly amendments adopted in accordance with Governor's
recommendations January 10, 1991.

- 1 40A:26A-18. Contracts entered into prior to appropriations
2 therefor.
3 40A:26A-19. Right of entry onto private property to make
4 surveys and investigations; interference
5 therewith.
6 40A:26A-20. Bonds as legal investments.
7 40A:26A-21. Competitive sewerage system; consent of
8 existing authority.
9 40A:26A-22. Statutes repealed.

10

11 40A:26A-1 Short Title.

12 This act shall be known and may be cited as the "Municipal and
13 County Sewerage Act."

14 40A:26A-2 Legislative Purpose.

15 The Legislature finds and declares it to be in the public
16 interest and to be the policy of this State to foster and promote
17 the public health by providing for the collection and treatment of
18 sewerage through adequate sewerage facilities. It is the purpose
19 of this act to implement this policy by authorizing municipalities
20 and counties either separately or in combination with other
21 municipalities and counties to finance, acquire, construct,
22 maintain, operate or improve works for the collection, treatment,
23 transport and disposal of sewage and to provide for the financing
24 of these facilities.

25 Source: New.

26 40A:26A-3 Definitions.

27 As used in this act:

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

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

43 "Local unit" means a county or municipality.

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

1 wastewater, including but not limited to, pumping and ventilating
2 stations, treatment plants and works, connections, outfall
3 servers, interceptors, trunk lines and other appurtenances
4 necessary for their use or operation.

5 Source: C.40:23-19.2 (P.L.1966, c.205, s.2) and New.

6 40A:26A-4. Acquisition, construction or operation of sewerage
7 facilities by one or more local units.

8 A local unit may, either separately or in combination with one
9 or more other local units acquire, construct or operate a
10 sewerage facility upon a determination by the governing body of
11 the local unit or each participating local unit that the public
12 health, safety or welfare can best be assured by the acquisition,
13 construction or operation of sewerage facilities by the local unit
14 or units. The determination shall be by ordinance or resolution,
15 or parallel ordinances or resolutions, as the case may be, of the
16 governing body of the local unit or each of the participating local
17 units.

18 No sewerage facilities may be acquired, constructed or
19 operated pursuant to this act until all necessary permits and
20 approvals have been received from the appropriate State agencies.

21 Source: C.40:23-19.2 (P.L.1966, c.205, s.2); R.S.40:63-1;
22 R.S.40:63-23 and R.S.40:63-68.

23 40A:26A-5 Powers.

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

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

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

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

41 d. To acquire in the name of the local unit or units by gift,
42 purchase, or by the exercise of the right of eminent domain, lands
43 and rights and interests therein, including lands under water and
44 riparian rights, and personal property as may be deemed
45 necessary for acquisition, construction, improvement, extension,
46 enlargement or reconstruction, or for the efficient operation of
47 any facilities acquired or constructed under the provisions of this
48 act and to hold and dispose of all real and personal property so
49 acquired;

1 e. To make and enter into all contracts and agreements
2 necessary or incidental to the performance of the local unit's or
3 units' duties and the execution of powers authorized under this
4 act, and to employ engineers, superintendents, managers,
5 attorneys, financial or other consultants or experts, and other
6 employees and agents as may be deemed necessary, and to fix
7 their compensation;

8 f. Subject to the provisions and restrictions set forth in the
9 ordinance or resolution authorizing or securing any bonds issued
10 under the provisions of this act, to enter into contracts with the
11 federal or State Government, or any agency or instrumentality
12 thereof, or with any other local unit, private corporation,
13 copartnership, association or individual providing for, or relating
14 to, sewerage services which contracts may provide for the
15 furnishing of sewerage facility services either by or to the local
16 unit or units, or the joint construction or operation of sewerage
17 facilities;

18 g. To fix and collect rates, fees, rents and other charges in
19 accordance with this act;

20 h. To prevent toxic pollutants from entering the sewerage
21 system;

22 i. To exercise any other powers necessary or incidental to the
23 effectuation of the general purpose of this act.

24 Source: C.40:23-19.3 (P.L.1966, c.205, s.3); C.40:23-19.9
25 (P.L.1966, c.205, s.9) R.S.40:63-1; R.S.40:63-23; R.S.40:63-24;
26 R.S.40:63-41; R.S.40:63-91 and R.S.40:63-92.

27 40A:26A-6 Surveys, maps and other costs; reimbursement
28 from bond funds.

29 a. Whenever a local unit pursuant to N.J.S.40A:26A-4 chooses
30 to exercise powers granted hereunder, the local unit shall make
31 or cause to be made such surveys, investigations, studies, borings,
32 maps, plans, drawings and estimates of costs and of revenues as
33 may be necessary.

34 b. The cost of the surveys, investigations, studies, borings,
35 maps, plans, drawings and estimates, or of any other costs
36 relating to the acquisition or construction of a sewerage facility
37 may be paid out of the general funds of the local unit or
38 participating local units. The local unit or units may be
39 reimbursed for part or all of the expenditures made in accordance
40 with this subsection from the proceeds of bonds issued pursuant
41 to this act.

42 Source: C.40:23-19.4 (P.L.1966, c.205, s.4); R.S.40:63-71 and
43 New.

44 40A:26A-7. Property damaged, repair, restoration or
45 compensation.

46 All public or private property damaged or destroyed in carrying
47 out the powers granted by this act shall be restored or repaired
48 and, as nearly as practicable, placed in its original condition, or
49 adequate compensation shall be made therefor.

50 Source: C.40:23-19.4 (P.L.1966, c.205, s.4) and New.

1 40A:26A-8. Relocation of public utility property.
2 Whenever the local unit or units determine that it is necessary
3 that any public utility facilities such as tracks, pipes, mains,
4 conduits, cables, wires, towers, poles and other equipment and
5 appliances of any public utility, as defined in R.S.48:2-13, which
6 are now, or hereafter may be located in, on, along, over or under
7 any sewerage facility project, should be removed, the public
8 utility owning or operating the facilities shall relocate or remove
9 the same in accordance with the order of the local unit or units,
10 the cost and expense of the relocation or removal, including the
11 cost of installing the facilities in a new location or new locations,
12 and the cost of any lands, or any rights or interest in lands, and
13 any other rights acquired to accomplish the relocation or
14 removal, less the cost of any lands or any rights of the public
15 utility paid to the public utility in connection with the relocation
16 or removal of the property, shall ascertained and paid as a part of
17 the cost of the project. In case of any relocation or removal of
18 facilities pursuant to this section, the public utility owning or
19 operating the same, its successors or assigns, may maintain and
20 operate the facilities, with the necessary appurtenances, in the
21 new location, for as long a period, and upon the same terms and
22 conditions, as it had the right to maintain and operate the
23 facilities in their former location.

24 Source: New.

25 40A:26A-9 Bonds and security therefor.

26 A local unit having adopted an ordinance or resolution pursuant
27 to N.J.S.40A:26A-4, may issue bonds pursuant to the provisions of
28 the "Local Bond Law," N.J.S.40A:2-1 et seq., for all or part of
29 the cost of sewerage facilities. Proceeds from the bonds shall be
30 used solely for the payment of the costs of the sewerage
31 facilities for which the bonds have been authorized.

32 Bonds issued by a local unit or local units may be:

33 a. General obligation bonds payable from unlimited ad valorem
34 taxes which may additionally be secured by a pledge of revenues
35 from rates, rentals or other charges levied and collected pursuant
36 to the provisions of N.J.S.40A:26A-10 and 40A:26A-11;

37 b. Local improvement assessment bonds payable from local
38 improvement assessments as provided in N.J.S.40A:26A-13,
39 additionally secured by unlimited ad valorem taxes; or

40 c. General obligation bonds secured and payable from rates,
41 rental and other charges levied and collected pursuant to
42 N.J.S.40A:26A-10 and 40A:26A-11, and additionally secured by
43 unlimited ad valorem taxes. Bonds may additionally be secured
44 by a pledge of any grant, subsidy or contribution received by the
45 issuing local unit from the United States or the State of New
46 Jersey, or any agency, instrumentality or political subdivision
47 thereof.

48 Source: C.40:23-19.8 (P.L.1966, c.205, s.8); R.S.40:63-28 and
49 R.S.40:63-110.

1 40A:26A-10. Rates, rentals and other charges.

2 After the commencement of operation of sewerage facilities,
3 ~~the local unit or units may prescribe and, from time to time,~~
4 ~~alter rates or rentals to be charged to users of sewerage~~
5 services. Rates or rentals being in the nature of use or service
6 charges or annual rental charges, shall be uniform and equitable
7 for the same types and classes of use and service may be based on
8 any factors which the governing body or bodies of that local unit
9 or units shall deem proper and equitable within the region served.

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

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

19 b. Establish a surplus in an amount sufficient to provide for
20 the reasonable anticipation of any contingency that may affect
21 the operating of the sewerage facility, and, at the discretion of
22 the local unit or units, allow for the transfer of moneys from the
23 budget for the sewerage facilities to the local budget in
24 accordance with section 5 of P.L.1983, c.111 (C.40A:44-35.1).

25 Source: C.40:23-19.7 (P.L.1966, c.205, s.7); R.S.40:63-7 and
26 New.

27 40A:26A-11. Connection fees.

28 In addition to rates and rentals, a separate charge in the nature
29 of a connection fee or tapping fee for each connection of any
30 property to the sewerage system may be imposed upon the owner
31 or occupant at the property so connected. The connection
32 charges shall be uniform within each class of users and the
33 amount thereof shall not exceed the actual cost of the physical
34 connection plus an amount representing a fair payment towards
35 the cost of the system and computed in the following manner:

36 a. The amount representing all debt service, including but not
37 limited to sinking funds, reserve funds, the principal and interest
38 on bonds, and the amount of any loans and interest thereon, paid
39 by the local unit or units to defray the capital cost of developing
40 the system as of the end of the immediately preceding budget
41 year shall be added to all capital expenditures made by a local
42 unit or units not funded by a bond ordinance or debt for the
43 development of the system as of the end of the immediately
44 preceding budget year;

45 b. Any gifts, contributions or subsidies to the local unit or
46 units received from, and not reimbursed or reimbursable to, any
47 federal, State, county or municipal government or agency or any
48 private person, and that portion of amounts paid to the local unit
49 or units by a public entity under a service agreement or service

1 contact which is not repaid to the public entity by the local unit
2 or units, shall then be subtracted;

3 c. The remainder shall be divided by the total number of
4 service units served by the local unit or units at the end of the
5 immediately preceding budget year, and the results shall then be
6 apportioned to each new customer according to the number of
7 service units attributed to that connector, to produce the
8 connector's contribution to the cost of the system. In attributing
9 service units to each connector, the estimated average daily flow
10 of sewage for the connector shall be divided by the average daily
11 flow of sewage for the average single family residence in the
12 area served by the local unit or units to produce the number of
13 service units to be attributed.

14 The connection fee shall be recomputed at the end of each
15 budget year, after a public hearing is held. The revised
16 connection fee may be imposed upon those who subsequently
17 connect to the system in that budget year.

18 The combination of the connection fee or tapping fee and the
19 aforesaid sewerage service charges shall be such that the
20 revenues of sewerage facilities shall be adequate to pay the
21 expenses of operation and maintenance of the sewerage facilities,
22 including improvements, extensions, enlargements and
23 replacements to sewerage facilities, reserves, insurance,
24 principal and interest on any bonds, and to maintain reserves or
25 sinking funds therefor as may be required under the bond
26 covenants or any contracts, or as may be deemed necessary or
27 desirable.

28 Source: R.S.40:63-60 and New.

29 40A:26A-12. Rates, rentals, connection fees, or other charges
30 as lien on real property; discontinuance of service.

31 Rates, rentals, connection fees or other charges levied in
32 accordance with N.J.S.40A:26A-10 and 40A:26A-11, shall be a
33 first lien or charge against the property benefited therefrom. If
34 any part of the amount due and payable in rates, rentals,
35 connection fees or other charges remain unpaid for 30 days
36 following the date for the payment thereof, interest upon the
37 amount unpaid shall accrue at a rate of interest to be determined
38 in accordance with N.J.S.40A:26A-17. The governing body or
39 bodies of the local unit or units may authorize payment of
40 delinquent assessments on an installment basis in accordance with
41 R.S.54:5-19. Liens levied in accordance with this section shall be
42 enforceable in the manner provided for real property tax liens in
43 chapter 5 of Title 54 of the Revised Statutes.

44 Nothing in this section shall be construed to limit the right of a
45 local unit or local units to discontinue service of any property for
46 the failure to pay any amount owing within 30 days after the date
47 the amount is due and payable, if written notice of the proposed
48 discontinuance of service and of the reasons therefor has been
49 given, within at least 10 days prior to the date of discontinuance,

1 to the owner of record of the property. In the event that notice
2 is provided by mail, the notice requirements shall be satisfied if
3 the mailing is made to the last known address of the owner of
4 record and is postmarked at least 10 days prior to the date of
5 discontinuance.

6 Source: R.S.40:63-8; R.S.40:63-61 and New.

7 40A:26A-13. Improvements financed by means of local
8 improvement assessments.

9 If the governing body of one or more local units determines
10 that all or any part of the cost of construction of sewerage
11 facilities acquired or constructed pursuant to this act should be
12 financed by local improvement assessments on real properties
13 located within the local unit or units, the local unit or units shall
14 pass a resolution or ordinance or parallel resolutions or
15 ordinances on the intention to undertake and finance the
16 sewerage facilities and shall give notice thereof by advertising in
17 one or more newspapers of general circulation in the local unit or
18 units, and by notifying each concerned property owner by
19 certified mail. The notice shall fix a date, time and place for a
20 public hearing on the proposed action; except that the date of the
21 hearing shall not be earlier than two weeks after the mailing of
22 notices to concerned property owners. If, after the hearing, the
23 governing body or bodies decide to carry out the proposed local
24 improvement, an ordinance or resolution, or parallel ordinances
25 or resolutions shall be adopted declaring that determination.

26 Source: R.S.40:63-61 and R.S.40:63-125.

27 40A:26A-14. Local improvement assessments; procedure for
28 and manner of assessment and collection.

29 Upon completion of the improvements made pursuant to
30 N.J.S.40A:26A-13, the governing body or governing bodies shall
31 assess the costs and expenses of the sewerage facilities on the
32 lands specially benefited therefrom in proportion to the benefits
33 received; however, no county may levy local improvement
34 assessments within a municipality without the approval of that
35 municipality.

36 When completed, the assessments shall be filed as a report with
37 the clerk or clerks of the governing body or bodies who shall give
38 notice, by advertising in one or more newspapers of general
39 circulation in the local unit or units, and by notifying each
40 concerned property owner by certified mail, of the fact that the
41 report has been filed and that the governing body or bodies will
42 meet at a time and place designated in the notice to hear
43 remonstrances against the report. The governing body or bodies
44 shall meet at the time and place designated in the notice to hear
45 remonstrances and may revise the report as may be deemed
46 appropriate after which the report shall be filed with the clerk or
47 clerks of the governing body or bodies, and the assessments shall
48 constitute liens upon the lands so assessed for special benefits.

49 The clerk or clerks shall deliver a duplicate copy of the report

1 to the appropriate officer or officers of the local unit or units
2 who shall immediately thereafter send out by mail or deliver to
3 ~~owners of lands bills for the assessments.~~ The officer or officers
4 shall mail or deliver bills for an assessment in the manner
5 required in connection with local improvements and shall keep a
6 record and books of assessments in the same manner required for
7 local improvements under R.S.40:56-31, at the expense of the
8 local unit or units. The governing body or bodies may make
9 additional requirements for recording, accounting for and
10 collecting assessments.

11 The governing body of a participating local unit may, by
12 resolution, provide that the owner of any real estate located
13 within the local unit upon which a local improvement assessment
14 has been made may pay the assessment in installments pursuant
15 to the procedures contained in R.S.40:56-35 for collection
16 thereof remain in arrears on July 4 of the calendar year following
17 the calendar year when the amount becomes in arrears, the
18 appropriate officer of the local unit shall enforce the lien by
19 selling the property in the manner set forth in chapter 5 of Title
20 54 of the Revised Statutes.

21 Source: R.S.40:63-61 and R.S.40:63-126.

22 40A:26A-15. Bonds issued by one or more units; debt service
23 payments.

24 A local unit, pursuant to an agreement with one or more other
25 local units or the State, may bear the entire cost of the
26 acquisition or construction of sewerage facilities and issue bonds
27 therefor, or may share all or part of these costs with the other
28 government. If the cost of acquisition or construction is shared,
29 bonds may be issued by each of the participating governments for
30 part or all of each government's respective costs, or a local unit
31 may issue bonds for the entire cost of the sewerage facilities to
32 be acquired or constructed, with the share of the costs of each of
33 the other participating governments to be repaid to the issuing
34 local unit in annual installments with a period agreed to by the
35 parties but not to exceed 40 years. The agreement shall
36 prescribe the rate or rates of interest on the annual installments
37 and such other terms and conditions as agreed to by the parties.
38 Agreements made hereunder shall be authorized by resolution or
39 ordinance of the governing bodies of the participating parties, or
40 in the case of the State, the Commissioner of Environmental
41 Protection. Annual installment payments may include payment
42 of the agreed share of a participating government's operating
43 and maintenance costs, including the costs of any improvements,
44 extensions, enlargements or reconstruction.

45 Source: R.S.40:63-134; R.S.40:63-135 and R.S.40:63-136.

46 40A:26A-16. Sewerage facilities deemed a self-liquidating
47 purpose under certain circumstances.

48 a. Principal and interest payments on bonds issue in
49 accordance with subsection c. of N.J.S.40A:26A-9 and operating

1 and maintenance costs for sewerage facilities, shall not be
2 included in computing the gross or net indebtedness of the local
3 unit issuing the bonds if the cash receipts from fees, rents and
4 other charges in a fiscal year are sufficient to meet operating
5 and maintenance expenses. In such cases, sewerage facilities
6 shall be deemed a self-liquidating purpose and interest and debt
7 redemption charges, and maintenance and operating costs payable
8 or accruing in that fiscal year shall be treated in the manner
9 prescribed in N.J.S.40A:2-45 through N.J.S.40A:2-47.

10 b. (1) Annual installment payments to a local unit made
11 pursuant to N.J.S.40A:26A-15 shall not be included in computing
12 the gross or net indebtedness of the other participating
13 government or governments, except that a self-liquidating
14 purpose facility shall be subject to the provisions of
15 N.J.S.40A:2-48; nor

16 (2) shall the principal and interest on bonds issued by a local
17 unit to finance, pursuant to an agreement made in accordance
18 with N.J.S.40A:26A-15, the share of the cost of the construction
19 or acquisition, or of maintenance or operation of another
20 government, be included in any computation of gross or net
21 indebtedness of the local unit.

22 Source: C.40:23-19.8 (P.L.1966, c.205, s.8) and New.

23 40A:26A-17. Payments by local unit to another local unit.

24 The chief fiscal officer of another government having entered
25 into a contract pursuant to this act, shall cause to be paid to the
26 local unit the amounts of money at the times stipulated in the
27 contract and certified by the local unit. The power and
28 obligation to make payments in accordance with the terms of the
29 contract shall be unlimited, and the sums necessary therefor shall
30 be included in the annual budget of the other government, which
31 shall be irrevocably and unconditionally obligated to levy ad
32 valorem taxes on all taxable property therein, without limits as
33 to the rate or amount, to the extent necessary to make payments
34 in full as due. Any part of a payment that remains unpaid for 30
35 days following the date payment is due, shall be assessed at
36 interest charge at a rate of interest at least equal to the monthly
37 index for the immediately preceding month for 20 year tax
38 exempt bond yields as compiled by the Bond Buyer or any similar
39 index agreed to by the parties.

40 Source: C.40:23-19.11 (P.L.1966, c.205, s.11); R.S.40:63-115
41 and New.

42 40A:26A-18. Contracts entered into prior to appropriations
43 therefor.

44 A local unit shall have the power to authorize, by resolution,
45 officials to enter into and execute a contract pursuant to this act
46 for periods of time and under terms and conditions as are deemed
47 proper and necessary, notwithstanding that no appropriation was
48 made or provided to cover the estimated cost of the contract.
49 The governing body of each contracting local unit shall have full

1 power and authority to do and perform all acts and things
2 provided under the terms and conditions of the contract.

3 Source: New.

4 40A:26A-19. Right of entry onto private property to make
5 surveys and investigations; interference therewith.

6 A local unit or local units may authorize officials or other
7 agents of the local unit or units to enter upon any land or water
8 for the purpose of making surveys, studies, investigations or
9 inspections. The officials or other agents are empowered to
10 examine pipes or any equipment connected to the sewerage
11 facilities or service pipes for compliance with established
12 standards and other requirements.

13 The use of sewerage facilities to any property may be
14 discontinued if the owner, lessee or other user of that property
15 opposes or obstructs an authorized official or other agent in the
16 performance of his duties. The discontinuance shall continue
17 until the required investigations or inspection are made, and any
18 alterations or repairs found to be necessary have been made and
19 approved by the appropriate official or agent.

20 Source: New.

21 40A:26A-20. Bonds as legal investments.

22 Notwithstanding any restrictions contained in any other law,
23 the State and all public officers, local units, political subdivisions
24 and public bodies, or agencies thereof, banks, trust companies,
25 savings banks, savings and loan associations, investment
26 companies, insurance companies, insurance businesses, and
27 executors, administrators, guardians, trustees and other
28 fiduciaries, may legally invest any sinking fund moneys or other
29 funds belonging to them or within their control in any bonds
30 authorized pursuant to this act, which bonds shall be authorized
31 security for any and all public deposits. The bonds and the
32 interest thereon shall be exempt from taxation except for
33 transfer and inheritance taxes.

34 Source: C.40:23-19.10 (P.L.1966, c.205, s.10) and New.

35 40A:26A-21. Competitive sewerage system; consent of existing
36 authority.

37 In the event a sewerage or municipal utilities authority has
38 been established in a local unit pursuant to the provisions of the
39 "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.)
40 or the "municipal and county utilities authorities law," P.L.1957,
41 c.183 (C.40:14B-1 et seq.), the local unit shall not establish a
42 competitive sewerage system within the local unit without the
43 consent of the existing authority.

44 Source: C.40:23-19.14 (P.L.1966, c.205, s.14)

45 40A:26A-22. Statutes repealed.

46 The following acts are repealed.

47 ¹[P.L.1951, c. 280 (C.40:62-105.1 through 62:105.45);]¹

48 P.L.1966, c.205 (C.40:23-19.1 through 40:23-19.14);

49 ¹[R.S.40:62-96 through 62-105;]¹

1 Source: C.40:23-19.14 (P.L.1966, c.205, s.14)
2 40A:26A-22. Statutes repealed.
3 The following acts are repealed.
4 P.L.1951, c. 280 (C.40:62-105.1 through 62:105.45);
5 P.L.1966, c.205 (C.40:23-19.1 through 40:23-19.14);
6 R.S.40:62-96 through 62-105;
7 R.S.40:63-1 through 40:63-39; and
8 R.S.40:63-41 through 40:63-67.
9 2. This act shall take effect January 1, 1990.
10
11

12 STATEMENT
13

14 This bill clarifies and systematizes municipal and county
15 powers to assure the provision of sewerage facilities to their
16 residents. This bill is a result of the recommendations on
17 municipal and county sewerage systems made by the County and
18 Municipal Government Study Commission in its 1984 report, New
19 Jersey's Local Infrastructure: An Assessment of Needs.
20 The bill authorizes a county or municipality, either alone or
21 together with one or more other counties or municipalities, or
22 any other combination thereof, to acquire, construct, finance,
23 and operate sewerage facilities.
24

25 LOCAL GOVERNMENT
26
27

28 The "Municipal and County Sewerage Act."

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1561

STATE OF NEW JERSEY

LAW LIBRARY COPY
DO NOT REMOVE

DATED: FEBRUARY 8, 1990

The Assembly Municipal Government Committee favorably reports Assembly Bill No. 1561.

This bill clarifies and systematizes municipal and county powers to assure the provision of sewerage facilities to their residents. This bill is a result of the recommendations on municipal and county sewerage systems made by the County and Municipal Government Study Commission in its 1984 report, New Jersey's Local Infrastructure: An Assessment of Needs.

The bill authorizes a county or municipality, either alone or together with one or more other counties or municipalities, or any other combination thereof, to acquire, construct, finance, and operate sewerage facilities.

This bill has been pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1561

STATE OF NEW JERSEY

DO NOT REMOVE

DATED: JUNE 14, 1990

The Senate County and Municipal Government Committee reports favorably Assembly Bill No. 1561.

Assembly Bill No. 1561 clarifies and systematizes municipal and county powers to assure the provision of sewerage facilities to their residents. This bill is a result of the recommendations on municipal and county sewerage systems made by the County and Municipal Government Study Commission in its 1984 report, New Jersey's Local Infrastructure: An Assessment of Needs.

The bill authorizes a county or municipality, either alone or together with one or more other counties or municipalities, or any other combination thereof, to acquire, construct, finance, and operate sewerage facilities.



**OFFICE OF THE GOVERNOR
NEWS RELEASE**

CN-001
Contact: EMMA BYRNE
NANCY KEARNEY
609-292-8956

TRENTON, N.J. 08625
Release: THURSDAY
NOVEMBER 29, 1990

A D V I S O R Y

Governor Jim Florio today conditionally vetoed the following bill:

A-1561 sponsored by Assemblyman John A. Girgenti

The bill would permit counties and municipalities, either separately or jointly to finance, construct, acquire and operate sewerage facilities, repealing various sections of the statutory law, and enacting chapter 26A of Title 40A of the New Jersey Statutes.

The conditional veto message is attached.

#####

ADOPTED
JAN 10 1991

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT
ASSEMBLY BILL NO. 1561

November 29, 1990

To the Assembly:

Pursuant to Article V, Section I, Paragraph 14, of the Constitution, I am returning Assembly Bill No. 1561 with my objections for reconsideration.

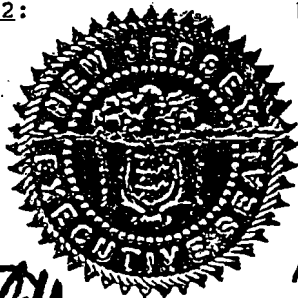
This bill clarifies and systematizes the manner in which municipalities or counties may acquire, construct, finance, and operate sewerage facilities and I am supportive of this aspect of the bill. The bill enhances the powers of local governments and encourages cost effective cooperative efforts in the planning, development, and operation of their water quality protection activities.

However, the bill also repeals statutes which provide the authority for the creation and operation of local water districts. By repealing the authority of a municipality to create such sub-municipal districts, the Legislature could be suggesting that the affected municipalities themselves should be responsible for that service. If this is the Legislature's intent, I suggest that separate legislation be considered which would address the disposition of the assets and liabilities of these districts and ensure continuous customer service.

Therefore, I herewith return Assembly Bill No. 1561 and recommend that it be amended as follows:

Page 12: Delete Line 4

Page 12: Delete Line 6



Respectfully,

J. Florio
GOVERNOR

Attest:

A handwritten signature in black ink, likely belonging to the Chief Counsel to the Governor.

Chief Counsel to the Governor

of 1936. Related to its flood control activities, the Corps provides state and local governments with assistance in data collection and analysis, project planning and design, and project construction. Corp activities are usually associated with large scale flood control and water projects which are regional in scope and beyond the ability of single local units of government to address.

In addition to the Corps, the U.S. Soil Conservation Service works as a regional coordinating agency for a variety of flood control and soil conservation projects in the rural areas of the state.

State aid to municipalities and counties for flood control facilities has come primarily in the form of matching grants from state bond issues. The *Emergency Flood Control Bond Act of 1978* and the *Safe Dam* component of the *Natural Resources Bond Act of 1980* authorized a total of 40 million dollars of grant monies for a variety of local flood control projects, as well as the construction and rehabilitation of dams in New Jersey. At the present time, 29 million dollars remain unobligated from these bond issues.

Commission Recommendations

Due to the availability of current bond funds, no new state bond issue will be required this year. However, continuing local flood control needs will require the State to develop a new source of financing for local flood control facilities within the next two years. The Commission recommends that the State take the lead role in formulating and implementing a comprehensive flood control strategy for the Passaic River Basin, including assistance and participation in the financing and construction of the major flood control projects in the region. The Commission also recommends that county governments play a stronger role in formulating and implementing regional flood control programs.

Enabling Legislation (See Chapter VII):

The Commission studied the adequacy of the statutory powers required for local governments to finance, acquire, contract and plan for local infrastructure systems. The Commission has determined that the statutes relating both to the financing of local infrastructure systems and the power to contract are incomplete and, as presently formulated, confusing and difficult to follow. A particular problem is the enabling legislation for municipal flood control facilities, where there is no statute now in existence authorizing municipalities to construct and finance flood control facilities.

Commission Recommendations

The Commission recommends the enactment of three new Municipal and County Infrastructure Statutes to be incorporated in the ongoing revision of Title 40. These revisions would be a Municipal and County Sewer Act, a Municipal and County Water Supply Act, and a Municipal and County Street and Road Act. In addition, a new Municipal and County Flood Control Act should be enacted in the immediate future to provide complete powers to county and municipal governments to construct flood control facilities and storm drainage systems. The new laws will replace the existing inadequate laws which are both incomplete and hard to follow because of the gradual accumulation of unnecessary and redundant provisions over the last century. To accomplish these revisions the Commission recommends that municipal and county engineers and attorneys be consulted in the preparation and amendment of the successor statutes.

[END OF EXECUTIVE SUMMARY]

control signs, lighting and traffic markers in the county right-of-way. In conjunction with these powers, found in Title 27 of the New Jersey Statutes, counties have the power to contract, finance, and bond for all elements of road and bridge projects. In addition, county governments exercise predominance in the design, construction and operation of bridges.

To enable municipalities and counties to utilize consistent and comprehensive enabling legislation in this area, the Commission recommends that the revisions to Title 40 now underway incorporate a new chapter called the Municipal and County Street, Road and Bridge Act. This chapter would provide both counties and municipalities with the power to plan, acquire (by fee, gift or eminent domain), construct, operate, contract (for any related purpose with any person or corporation), and finance (through general taxes, improvement assessments, gifts—including State and Federal Aid—and general obligation bonds) local road and bridge projects. In conjunction with the enactment of this chapter, existing enabling legislation on this subject would be repealed.

The existing statutes stating that counties are responsible for building all bridges and culverts which carry streams under municipal streets should be incorporated in the new law. In addition, any statutory revisions should continue to recognize the interrelationship of street and road construction with flood control and storm water management. As such, the authorization for counties to construct and maintain bridges should require the incorporation of proper flood control elements.

Sewerage:

In general, the municipal sewerage statutes provide the basic authorizing powers needed for the operation of a municipal sewer system. Specifically, the municipality is granted power to plan, acquire and construct municipal sewer systems. Financial powers include general taxation, service charge financing, district taxation and general obligation bonding. Improvement assessment procedures are not included herein but are included elsewhere. Contractual powers granted to municipalities are extensive.

Municipalities have predominance in the provision of sewerage programs. They have special ordinance powers to require home owners and businessmen to connect to the sewage system, while special provisions exist to ensure payment of the charges levied to finance the system.

While comprehensive, there are a number of redundant and overly detailed provisions. The laws also incorporate storm drainage provisions within their basic objective of authorizing sanitary sewer services. The law does not provide explicit power to keep toxic pollutants from entering the sewage system.

In 1966, the "County Sewerage Financing Law" was enacted. It provides a clear, concise layout of the basic powers to construct or finance a sewerage system. However, it does not provide counties with the power to utilize improvement assessment financing or district tax financing.

The Commission recommends that the ongoing revision of Title 40 incorporate a new comprehensive and concise Municipal and County Sewer Chapter. This chapter would provide planning, right of entry, acquisition by fee, gift and eminent domain, construction, reconstruction, operating and financing powers

*N.J. COUNTY & MUNICIPAL GOV. STUDY COMM.
NEW JERSEY'S LOCAL INFRASTRUCTURE: AN ASSESSMENT
OF NEEDS. SEPT., 1984.*

to municipalities and counties. The financing powers in such an enactment should include service charges, improvement assessment financing, district taxation, general obligation bonds, gifts and aid, and general local financing. The chapter should also authorize every local agency to prevent toxic pollutants from entering the sewer system. The power to construct storm drains should be placed in this new Municipal and County Flood Control Act.

Municipal predominance should be preserved to ensure municipal control over connections to the appropriate sewage system, to ensure municipal control over the laying of sewer pipes within the municipality, and to facilitate coordination with the local street program and other municipal public works programs.

Water Supply:

Municipal enabling law for water supply contains most of the basic provisions required to construct and operate a public water supply system and a number of additional provisions which have proved beneficial over time. In regards to financing, the municipal water supply law does not contain the power to use improvement assessment financing. That power is provided elsewhere in Title 40. Municipal Water Supply Law does include special district taxation, allowing the governing body to levy a water supply tax on the properties in a certain area of the community.

As with sewers, municipal governments exercise predominance in decision making relating to water supply law. They control the right-of-way under their streets with respect to other persons or corporations supplying water, they have the power to require property owners to connect to the water purveyor utilized in the municipality, and they have special powers to ensure payment of fees or taxes. The laws do include a number of redundant procedural provisions and other powers relating to sewers and electric power systems which are covered better in other statutes.

In 1979, a modern County Water Supply Financing Act was adopted. The act provides all the basic water supply powers to county government. It authorizes county government to construct, operate, and finance water supply facilities for the people of the county, but does not authorize counties to use improvement assessment financing.

The Commission recommends that the ongoing revisions of Title 40 incorporate a new Municipal and County Water Supply Law Chapter. It should contain all the basic provisions contained in the County Water Supply Financing Act. It should also authorize improvement assessment financing, tax district financing, and provisions for dealing with failure to pay by customers. The law should preserve municipal predominance especially in the area of customer service and water supply distribution.

Flood Control:

A modern flood control statute was enacted for county governments in 1977. This statute provides the basic powers to construct and maintain flood control facilities, including improvement assessment procedures and broad powers to contract. A more archaic county drainage statute also exists.

Municipal governments, however, do not have clear or complete authorization