

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED MAY 10, 2018

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SYNOPSIS

Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 28, 2019, with amendments.

(Sponsorship Updated As Of: 2/1/2019)

1 **AN ACT** concerning stormwater utilities, supplementing Title 40A
2 of the New Jersey Statutes, and amending various parts of the
3 statutory law.

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

7
8 1. (New section) Sections 1 through ²~~17~~ 18² of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) shall be
10 known and may be cited as the “Clean Stormwater and Flood
11 Reduction Act.”

12
13 2. (New section) a. The Legislature finds and declares that:

14 (1) The State of New Jersey faces an extensive set of problems
15 due to inadequate stormwater infrastructure and management, and
16 these problems directly affect the health, safety, economic well-
17 being, and quality of life of New Jersey residents.

18 (2) When storms occur, rainwater runs off of impervious
19 surfaces such as roads, roofs, and parking lots, and into stormwater
20 management systems and waterways. This stormwater carries with
21 it oil, pesticides, other chemicals, sediments, and bacteria that may
22 contaminate State waters, potentially making them unsafe for
23 drinking, fishing, and recreational purposes. It is estimated that up
24 to 60 percent of the State’s existing water pollution is attributable to
25 stormwater and nonpoint sources of pollution.

26 (3) Additionally, if a stormwater management system is not in
27 place or is not able to adequately absorb, capture, or convey
28 stormwater, then runoff in large volume and force may cause
29 flooding and damage to homes, businesses, and property. A
30 projected increase in sea level rise and more frequent and severe
31 storms are expected to only increase flooding.

32 (4) New Jersey, in particular, is prone to pollution and flooding
33 problems, with over 10 percent of its land area covered with
34 impervious surfaces. These problems are particularly acute in the
35 21 urban New Jersey municipalities that have combined sewer
36 systems, which routinely overflow and discharge untreated
37 wastewater and stormwater into the State’s waters, contributing to
38 water pollution and impairing the use and enjoyment of those
39 waters.

40 (5) Stormwater infrastructure in New Jersey currently lacks a
41 dedicated source of funding and, consequently, receives few
42 upgrades and little maintenance once built. In some instances,
43 stormwater infrastructure goes unmonitored and unattended until it

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:

¹Senate SBA committee amendments adopted June 18, 2018.

²Assembly AAP committee amendments adopted January 28, 2019.

1 breaks down; in other instances, it is simply inadequate to manage
2 stormwater.

3 (6) Establishment of local stormwater utilities presents an
4 effective management strategy to address stormwater issues.
5 Currently, there are more than 1,500 stormwater utilities operating
6 in 40 states across the country and the District of Columbia.
7 Stormwater utilities are often authorized to assess fair and equitable
8 fees to fund the development, improvement, and management of
9 stormwater infrastructure.

10 b. The Legislature therefore determines that it is in the public
11 interest to authorize the establishment of local stormwater utilities,
12 and to allow those utilities to assess fees ²that are based on a fair
13 and equitable approximation of the proportionate contribution of
14 stormwater runoff from any real property², in order to finance the
15 improvement of the State's stormwater infrastructure, better control
16 water pollution and flooding, restore and enhance the quality of the
17 State's waters, and protect the public health, safety, and welfare and
18 the environment.

19 The Legislature further determines that green infrastructure is an
20 effective approach to managing stormwater because it reduces and
21 treats stormwater at its source while delivering other environmental,
22 social, and economic benefits. The use of green infrastructure
23 should be encouraged and, where appropriate, required to help
24 decrease pollutant loads and runoff volumes to receiving waters.

25
26 3. (New section) As used in sections 1 through ²~~[17]~~ 18² of
27 P.L. , c. (C.) (pending before the Legislature as this bill):

28 "Authority" means a county or municipal sewerage authority
29 established pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a
30 county or municipal utilities authority established pursuant to
31 P.L.1957, c.183 (C.40:14B-1 et seq.), or a county improvement
32 authority established pursuant to P.L.1960, c.183 (C.40:37A-44 et
33 seq.).

34 "Department" means the Department of Environmental
35 Protection.

36 "Division" means the Division of Local Government Services in
37 the Department of Community Affairs.

38 "Green infrastructure" means a stormwater management system
39 that treats stormwater runoff through infiltration into subsoil, treats
40 stormwater runoff through filtration by vegetation or soil, or stores
41 stormwater runoff for reuse.

42 "New Jersey Pollutant Discharge Elimination System permit"
43 means any permit issued by the department pursuant to section 6 of
44 P.L.1977, c.74 (C.58:10A-6).

45 "Stormwater" means water resulting from precipitation,
46 including rain and snow, which runs off the land's surface, is
47 transmitted to the subsurface, or is captured by separate storm

1 sewers or other sewage or drainage facilities, or conveyed by snow
2 removal equipment.

3 “Stormwater management system” means any equipment, plant,
4 structures, machinery, apparatus, management practices, design
5 practices, planning activities, or land, or any combination thereof,
6 acquired, used, constructed, implemented, or operated to convey
7 stormwater, control or reduce stormwater runoff and associated
8 pollutants or flooding, induce or control the infiltration of
9 groundwater recharge of stormwater, or eliminate illicit or illegal
10 nonstormwater discharges into stormwater conveyances.

11

12 4. (New section) a. The governing body of any county or
13 municipality may, by resolution or ordinance, as appropriate, establish
14 a stormwater utility for the purposes of acquiring, constructing,
15 improving, maintaining, and operating stormwater management
16 systems in the county or municipality, consistent with State and
17 federal laws, rules, and regulations.

18 b. Any stormwater utility that is established pursuant to this
19 section shall be considered a “municipal public utility” for the
20 purposes of Title 40A of the New Jersey Statutes. Notwithstanding
21 any other law to the contrary, a county or municipality may
22 establish a stormwater utility as a new department within the county
23 or municipality, or as an operation of an existing department or
24 departments having responsibility and control over stormwater
25 management systems or portions thereof.

26 c. A county or municipality that establishes a stormwater
27 utility pursuant to this section shall submit a copy of the resolution
28 or ordinance adopted pursuant to subsection a. of this section to the
29 Department of Environmental Protection and the Division of Local
30 Government Services in the Department of Community Affairs.
31 The establishment of a stormwater utility pursuant to this section
32 shall not be construed to modify or otherwise affect a county or
33 municipality’s obligations under any New Jersey Pollutant
34 Discharge Elimination System permit or any other rule, regulation,
35 order, or permit issued by the department.

36

37 5. (New section) a. The governing body or bodies of one or
38 more municipalities that have established a municipal sewerage
39 authority pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or a
40 municipal utilities authority pursuant to P.L.1957, c.183 (C.40:14B-1
41 et seq.) may, by ordinance, or parallel ordinances, as appropriate,
42 request that the authority establish a stormwater utility for the purposes
43 of acquiring, constructing, improving, maintaining, and operating
44 stormwater management systems in the municipality or municipalities,
45 consistent with State and federal laws, rules, and regulations.

46 b. Upon the request of a municipality or municipalities, an
47 authority may establish a stormwater utility pursuant to a service
48 agreement between the authority and the requesting municipality or

1 municipalities, in accordance with the provisions of P.L. ,
2 c. (C.) (pending before the Legislature as this bill) and the
3 “Local Authorities Fiscal Control Law,” P.L.1983, c.313
4 (C.40A:5A-1 et seq.). The agreement shall set forth the powers,
5 duties, and functions of the stormwater utility and any other matters
6 that may be necessary for the agreement. A stormwater utility
7 established pursuant to this section shall be considered a separate
8 operation of the authority to be budgeted and accounted for
9 separately.

10 c. An authority that establishes a stormwater utility pursuant to
11 this section shall submit a copy of the service agreement to the
12 Department of Environmental Protection and the Division of Local
13 Government Services in the Department of Community Affairs. A
14 municipality that contractually delegates to an authority any of its
15 responsibilities under any New Jersey Pollutant Discharge
16 Elimination System permit or any other rule, regulation, order, or
17 permit issued by the department shall remain responsible for
18 compliance with any such rules, regulations, orders, or permits if
19 the authority fails to implement the requirements thereof.
20

21 6. (New section) a. The governing body of any county that
22 has established a county sewerage authority pursuant to P.L.1946,
23 c.138 (C.40:14A-1 et seq.), a county utilities authority pursuant to
24 P.L.1957, c.183 (C.40:14B-1 et seq.), or a county improvement
25 authority pursuant to P.L.1960, c.183 (C.40:37A-44 et seq.) may, by
26 resolution, request that the authority establish a stormwater utility for
27 the purposes of acquiring, constructing, improving, maintaining, and
28 operating stormwater management systems in the county, consistent
29 with State and federal laws, rules, and regulations.

30 b. Upon the request of a county, an authority may establish a
31 stormwater utility pursuant to a service agreement between the
32 authority and the requesting county, in accordance with the provisions
33 of P.L. , c. (C.) (pending before the Legislature as this bill)
34 and the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
35 (C.40A:5A-1 et seq.). The agreement shall set forth the powers,
36 duties, and functions of the stormwater utility and any other matters
37 that may be necessary for the agreement. A stormwater utility
38 established pursuant to this section shall be considered a separate
39 operation of the authority to be budgeted and accounted for
40 separately.

41 c. An authority that establishes a stormwater utility pursuant to
42 this section shall submit a copy of the service agreement to the
43 Department of Environmental Protection and the Division of Local
44 Government Services in the Department of Community Affairs. A
45 county that contractually delegates to an authority any of its
46 responsibilities under any New Jersey Pollutant Discharge
47 Elimination System permit or any other rule, regulation, order, or
48 permit issued by the department shall remain responsible for

1 compliance with any such rules, regulations, orders, or permits if
2 the authority fails to implement the requirements thereof.

3

4 7. (New section) a. The governing bodies of any two or more
5 municipalities may, pursuant to the provisions of P.L.2007, c.63
6 (C.40A:65-1 et al.), enter into a shared services agreement to
7 provide for the construction, improvement, maintenance, or
8 operation of stormwater management systems in the municipalities,
9 consistent with State and federal laws, rules, and regulations.

10 b. The governing body or bodies of one or more municipalities,
11 and the county in which the municipality or municipalities are
12 located may, pursuant to the provisions of P.L.2007, c.63
13 (C.40A:65-1 et al.), enter into a shared services agreement to
14 provide for the construction, improvement, maintenance, or
15 operation of stormwater management systems in the municipalities,
16 consistent with State and federal laws, rules, and regulations.

17 c. Any county or municipality that enters into a shared services
18 agreement pursuant to this section shall submit a copy of the
19 agreement to the Department of Environmental Protection and the
20 Division of Local Government Services in the Department of
21 Community Affairs.

22

23 8. (New section) a. Any county, municipality, or authority
24 that establishes a stormwater utility pursuant to P.L. ,
25 c. (C.) (pending before the Legislature as this bill) may
26 charge and collect reasonable fees and other charges to recover the
27 stormwater utility's costs for stormwater management. These fees
28 and other charges may be charged to and collected from the owner
29 or occupant, or both, of any real property from which originates
30 stormwater runoff which directly or indirectly enters the stormwater
31 management system or the waters of the State. The owner of any
32 such real property shall be liable for and shall pay such fees and
33 charges to the stormwater utility at the time when and place where
34 the fees and charges are due and payable.

35 b. Any fee or other charge that a county, municipality, or
36 authority charges and collects pursuant to this section shall be based
37 on a fair and equitable approximation of the proportionate
38 contribution of stormwater runoff from a real property.

39 c. In establishing fees and other charges pursuant to this
40 section, a county, municipality, or authority shall provide for:

41 (1) a partial fee reduction in the form of a credit for any property
42 that maintains and operates a stormwater management system that
43 complies with the State and local stormwater management standards
44 that were in place at the time the system was approved and that
45 effectively reduces, retains, or treats stormwater onsite;

46 (2) an additional partial fee reduction in the form of a credit for
47 any property² which has installed and is operating and maintaining
48 current² stormwater best management practices that reduce, retain,

1 or treat stormwater onsite and which are approved by the county,
2 municipality, or authority;

3 ²[(2)] (3)² an additional partial fee reduction in the form of a
4 credit for any property which has installed and is operating and
5 maintaining green infrastructure that reduces, retains, or treats
6 stormwater onsite and which exceeds any requirements for green
7 infrastructure that may be applicable to that property under any rule
8 or regulation adopted by the Department of Environmental
9 Protection or the local stormwater control ordinance; and

10 ²[(3)] (4)² an exemption from fees and other charges for land
11 actively devoted to agricultural or horticultural use that is valued,
12 assessed, and taxed pursuant to the “Farmland Assessment Act of
13 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

14 d. Any county, municipality, or authority that collects fees and
15 charges pursuant to this section shall remit to the State Treasurer
16 annually an amount equal to five percent of all such fees and
17 charges collected, or \$50,000, whichever amount is less. The State
18 Treasurer shall deposit these moneys into the “Clean Stormwater
19 and Flood Reduction Fund” established pursuant to section ²[16]
20 ¹⁷ of P.L. , c. (C.) (pending before the Legislature as this
21 bill).

22 e. Except as provided in section 5 of P.L.1983, c.111
23 (C.40A:4-35.1) or ²[Section] section² 1 of P.L.2004, c.87
24 (C.40A:5A-12.1), as applicable, a county, municipality, or authority
25 shall only use fees and other charges collected pursuant to this
26 section to pay for or recover all or a portion of the cost of the
27 following:

28 (1) initial establishment of a stormwater utility pursuant to
29 P.L. , c. (C.) (pending before the Legislature as this bill)
30 and ongoing related administrative expenses;

31 (2) capital expenditures, including planning, design,
32 engineering, acquisition, construction, and improvement of a
33 stormwater management system;

34 (3) operation and maintenance expenditures of a stormwater
35 management system;

36 (4) development and implementation of an asset management
37 program for a stormwater management system;

38 (5) development and implementation of a stormwater
39 management plan and stormwater control ordinances pursuant to
40 section 1 of P.L.1981, c.32 (C.40:55D-93);

41 (6) ¹any action required pursuant to any New Jersey Pollutant
42 Discharge Elimination System permit;

43 (7)¹ development and implementation of any long-term control
44 plan to mitigate combined sewer overflows pursuant to State or
45 federal law, rule, regulation, permit, or consent decree;

1 ¹~~[(7)]~~ (8)¹ monitoring, inspection, and enforcement activities to
2 carry out the purposes of P.L. , c. (C.) (pending before the
3 Legislature as this bill);

4 ¹~~[(8)]~~ (9)¹ public education and outreach related to stormwater
5 management; and

6 ¹~~[(9)]~~ (10)¹ any other purpose related to stormwater
7 management as may be authorized by the department, the Division
8 of Local Government Services in the Department of Community
9 Affairs, or the Local Finance Board pursuant to rules, regulations,
10 or permits.

11 f. In establishing fees and other charges and appropriate credits
12 pursuant to this section, a county, municipality, or authority shall
13 consult the guidance manual developed pursuant to section ²~~[(15)]~~
14 16² of P.L. , c. (C.) (pending before the Legislature as this
15 bill), and other best practice guidance manuals published by
16 industry organizations.

17

18 9. (New section) In the event that a stormwater utility fee or
19 charge of any county, municipality, or authority with regard to any
20 parcel of real property is not paid when due:

21 a. interest shall accrue and be due to the county or authority on
22 the unpaid balance at the rate of one and one half percent per month
23 until such fees and charges, and the interest thereon, shall be fully
24 paid to the county or authority; interest shall accrue and be due to
25 the municipality on the unpaid balance at a rate not to exceed that
26 permitted under R.S.54:4-67;

27 b. the unpaid balance thereof and all interest accruing thereon
28 shall be a lien on such parcel enforced in the same manner as
29 delinquent property taxes and municipal charges. Such lien shall be
30 superior and paramount to the interest in such parcel of any owner,
31 lessee, tenant, mortgagee, or other person except the lien of State
32 taxes and property taxes and shall be on a parity with and deemed
33 equal to the lien on such parcel of State taxes and property taxes;
34 and

35 c. the unpaid balance thereof and all interest accrued thereon,
36 together with attorneys' fees and costs, may also be recovered by
37 the county, municipality, or authority in a civil action, but not in
38 lieu of enforcement as a delinquent municipal charge.

39

40 10. (New section) A county, municipality, or authority that
41 establishes a stormwater utility pursuant to P.L. , c. (C.)
42 (pending before the Legislature as this bill) may provide, by
43 ordinance or resolution, as appropriate, at one time, or from time to
44 time, for the issuance of bonds for the purpose of raising funds to
45 pay the cost of any part of the stormwater management system. The
46 bonds shall be issued pursuant to each entity's respective authority
47 under the "Local Bond Law," N.J.S.40A:2-1 et seq., P.L.1946, c.138

1 (C.40:14A-1 et seq.), P.L.1957, c.183 (C.40:14B-1 et seq.), P.L.1960,
2 c.183 (C.40:37A-44 et seq.), or any other applicable law.

3
4 11. (New section) a. A county, municipality, or authority that
5 establishes a stormwater utility pursuant to P.L. , c. (C.)
6 (pending before the Legislature as this bill) shall, within one year
7 after establishment of the utility, and each year thereafter, prepare
8 and submit to the Division of Local Government Services in the
9 Department of Community Affairs and the Department of
10 Environmental Protection a report in the form and manner
11 determined by the department and the division pursuant to
12 subsection b. of this section. Each county, municipality, or
13 authority shall post the annual report on its Internet website.

14 b. Within 18 months after the effective date of this section, the
15 division, in consultation with the department, shall adopt, pursuant
16 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
17 1 et seq.), rules and regulations outlining the substantive
18 requirements for, and the form and manner of, the annual report
19 required pursuant to subsection a. of this section. The annual report
20 shall include, but need not be limited to, information on:

- 21 (1) the stormwater utility’s service area;
- 22 (2) the schedule of fees ¹**[and]** ¹ other charges ¹, and credits¹
23 that the county, municipality, or authority has established;
- 24 (3) the number of properties subject to the stormwater utility’s
25 fees and other charges, and the number of properties ¹of each land
26 use type, including but not limited to residential, commercial, and
27 industrial,¹ that have been granted credits or exemptions from the
28 fee ¹, and the cumulative value of credits that have been granted to
29 properties of each land use type¹ ;
- 30 (4) the total revenues from stormwater utility fees and other
31 charges collected by the county, municipality, or authority;
- 32 (5) the percentage and amount of revenues from fees and other
33 charges spent on each of the purposes authorized in subsection e. of
34 section 8 of P.L. , c. (C.) (pending before the Legislature as
35 this bill); and
- 36 (6) all stormwater management projects implemented in the
37 previous fiscal year.

38
39 12. (New section) a. A county, municipality, or authority that
40 establishes a stormwater utility pursuant to P.L. , c. (C.)
41 (pending before the Legislature as this bill) may acquire by gift,
42 grant, purchase, or condemnation, or in any other lawful manner,
43 any privately-owned stormwater management system, or any real
44 property necessary for the construction, improvement, operation, or
45 maintenance of a stormwater management system.

46 b. If a county, municipality, or authority requires any payment
47 as a condition of, or in connection with, assuming ownership,

1 operation, or maintenance of any privately-owned stormwater
2 management system, the payment shall not exceed the costs
3 attributable to the ownership, operation, or maintenance of that
4 stormwater management system.

5
6 ²13. a. (New section) Notwithstanding the provisions of section
7 12 of P.L. , c. (C.) (pending before the Legislature as this
8 bill), the owner of a stormwater management system that complies
9 with the State and local stormwater management standards that
10 were in place at the time the system was approved may retain
11 ownership and responsibility for the operation and maintenance of
12 the system, or offer to dedicate the system to the county,
13 municipality, or authority. The county, municipality, or authority
14 may accept the dedication of, and assume operation and
15 maintenance responsibility for, the stormwater management system.

16 b. Any person who dedicates a stormwater management system
17 to a county, municipality, or authority pursuant to this section shall
18 still be liable for paying any applicable stormwater utility fee
19 imposed pursuant to section 8 of P.L. , c. (C.) (pending
20 before the Legislature as this bill).²

21
22 ²[13.] 14.² (New section) A county, municipality, or authority
23 that establishes a stormwater utility pursuant to P.L. ,
24 c. (C.) (pending before the Legislature as this bill) may,
25 pursuant to the “Local Public Contracts Law,” P.L.1971, c.198
26 (C.40A:11-1 et seq.), enter into a contract with a private entity for
27 the planning, design, engineering, construction, improvement,
28 maintenance, and operation of a stormwater management system.

29
30 ²[14.] 15.² (New section) Each county, municipality, and
31 authority shall adopt rules and regulations requiring that not less
32 than the prevailing wage rate be paid to workers employed in the
33 performance of any construction contract undertaken in connection
34 with financial assistance provided for the construction of a
35 stormwater management system under P.L. , c. (C.)
36 (pending before the Legislature as this bill). The prevailing wage
37 rate shall be the rate determined by the Commissioner of Labor
38 pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et
39 seq.).

40 For the purposes of this section, “financial assistance” means any
41 loan, bond, loan guarantee, grant, incentive, tax exemption, or other
42 financial assistance approved, funded, authorized, administered, or
43 provided by the municipality, county, or authority in connection
44 with the construction of a stormwater management system.

45
46 ²[15.] 16.² (New section) a. Within 18 months after the
47 effective date of this section, the Department of Environmental

1 Protection, in consultation with the Board of Public Utilities
2 ¹**[and]** ¹, the Division of Local Government Services in the
3 Department of Community Affairs, ¹and stakeholders as the
4 department deems appropriate.¹ shall develop a stormwater utility
5 guidance manual. The department shall periodically update the
6 guidance manual as the department deems appropriate. The
7 guidance manual shall include, but need not be limited to:

8 (1) technical assistance for counties, municipalities, and
9 authorities seeking to establish a stormwater utility pursuant to
10 P.L. , c. (C.) (pending before the Legislature as this bill);

11 (2) factors for counties, municipalities, and authorities to
12 consider when establishing ¹and revising¹ stormwater utility fees
13 and other charges and appropriate credits;

14 (3) information on how to develop an asset management
15 program for a stormwater management system; and

16 (4) information on how counties, municipalities, and authorities
17 can conduct public education and outreach related to stormwater
18 management.

19 b. Development of the stormwater utility guidance manual, and
20 any updates thereto, shall not be subject to the requirements and
21 provisions of the “Administrative Procedure Act,” P.L.1968, c.410
22 (C.52:14B-1 et seq.).
23

24 ²**[16.]** 17.² (New section) a. There is established in the General
25 Fund a special nonlapsing account to be known as the “Clean
26 Stormwater and Flood Reduction Fund.” The State Treasurer shall
27 credit to this account all moneys remitted to the State Treasurer by
28 counties, municipalities, and authorities pursuant to subsection d. of
29 section 8 of P.L. , c. (C.) (pending before the Legislature as
30 this bill). Pending the use thereof, moneys deposited in the fund
31 may be invested or reinvested in such securities as are approved by
32 the State Treasurer. Interest or other income earned on moneys
33 deposited into the fund shall be credited to the fund for use as set
34 forth in subsection b. of this section.

35 b. Moneys deposited in the “Clean Stormwater and Flood
36 Reduction Fund” are specifically dedicated and shall be used by the
37 Department of Environmental Protection only to fund planning,
38 implementation, and coordination activities related to stormwater
39 utilities in the State, water quality monitoring and assessment, point
40 and non-point source water pollution reduction projects,
41 implementation of the department’s stormwater management
42 program, and a public education and outreach program relating to
43 stormwater management.
44

45 ²**[17.]** 18.² (New section) The Department of Environmental
46 Protection, the Division of Local Government Services in the
47 Department of Community Affairs, and the Local Finance Board

1 may adopt, pursuant to the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
3 necessary for the implementation of P.L. , c. (C.) (pending
4 before the Legislature as this bill).

5

6 ²[18.] 19.² Section 1 of P.L.2017, c.290 (C.40:14A-4.2) is
7 amended to read as follows:

8 1. a. Notwithstanding the provisions of any other law to the
9 contrary, the budget of ²[every] ^a regional sewerage authority
10 ²that was² created pursuant to the provisions of P.L.1946, c.138
11 (C.40:14A-1 et seq.) ², and that is located in a county of the first
12 class with a population of over 600,000 and a population density of
13 over 10,000 persons per square mile according to the latest federal
14 decennial census² shall be subject to the following provisions:

15 (1) (a) The percentage of growth in the fee-funded
16 appropriations in the annual budget of a regional sewerage authority
17 shall not exceed two percent per year; and the amount billed to
18 customers of the authority, or the amount billed to a local unit for
19 its proportional share of the authority's expenses, as the case may
20 be, shall not exceed that amount billed in the previous budget year
21 to each customer or local unit, as the case may be, by more than two
22 percent for a similar amount of use or service of the sewerage
23 system.

24 (b) A regional sewerage authority may add to the allowable
25 growth in fee-funded appropriations in any one of the next three
26 succeeding years, the amount of the difference between the
27 maximum allowable increase in fee-funded appropriations for the
28 current budget year pursuant to subparagraph (a) of this paragraph
29 and the actual amount of fee-funded appropriations for the current
30 budget year.

31 (2) The percentage of growth in the fee-funded appropriations in
32 the annual budget of a regional sewerage authority shall be
33 determined without consideration of any amounts appropriated by
34 the authority for:

35 (a) capital expenditures, including payment of principal or
36 interest on bonds authorized or issued pursuant to the "sewerage
37 authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.);

38 (b) increases in pension contributions and accrued liability for
39 pension contributions in excess of two percent over those
40 expenditures for the previous budget year ;

41 (c) increases in health care costs equal to that portion of the
42 actual increase in total health costs for the budget year that is in
43 excess of two percent of total health care costs in the previous
44 budget year, but is not in excess of the product of the total health
45 care costs in the prior year and the average percentage increase of
46 the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et

1 seq.), as annually determined by the Division of Pensions and
2 Benefits in the Department of the Treasury;

3 (d) increases in energy cost expenditures in excess of two
4 percent over those expenditures for the previous budget year;

5 (e) extraordinary costs that are directly related to an emergency;

6 **【and】**

7 (f) expenditures for the cost of services mandated by any order
8 of court, by any federal or State statute, or by administrative rule,
9 directive, order, permit, or other legally binding device issued by a
10 State agency which identified the cost as a mandated expenditure on
11 certification to the Local Finance Board by the State agency ; and

12 (g) costs associated with the establishment of a stormwater
13 utility pursuant to P.L. , c. (C.) (pending before the
14 Legislature as this bill) or for any of the purposes authorized in
15 subsection e. of section 8 of P.L. , c. (C.) (pending before
16 the Legislature as this bill).

17 (3) Notwithstanding the limitations imposed by paragraph (1) of
18 this **【section】** subsection, a regional sewerage authority may apply
19 to the Local Finance Board for a waiver to increase its rents, rates,
20 fees, and charges to levels sufficient to compensate for loss of
21 revenues due to reductions in the use or service of the sewerage
22 system.

23 (4) Notwithstanding the limitations imposed by paragraph (1) of
24 this subsection, the percentage of growth in the increase of the
25 rents, rates, fees, and charges of a regional sewerage authority shall
26 be determined without consideration of any amounts required to be
27 raised for the purposes set forth in subparagraph (g) of paragraph
28 (2) of this subsection.

29 As used in this section, "emergency" shall mean any purpose
30 which is not foreseen at the time of the adoption of the annual
31 budget, or for which adequate provision was not made therein, to
32 meet a pressing need for public expenditure to protect or promote
33 the public health, safety, morals, or welfare.

34 b. After the budget of a regional sewerage authority ²that is
35 subject to the provisions of subsection a. of this section² has been
36 approved by the members of the regional sewerage authority, the
37 budget shall be forwarded to the Director of the Division of Local
38 Government Services for review and approval.

39 The director shall review the budget to ensure that the budget
40 conforms with the requirements of subsection a. of this section and
41 the "Local Authorities Fiscal Control Law," P.L.1983, c.313
42 (C.40A:5A-1 et seq.), and that the budgeted expenditures are
43 reasonable in cost and necessary for the performance of the regional
44 sewerage authority.

45 If the director determines that the budget meets the requirements
46 of this subsection, the director shall approve the budget. If the
47 director does not approve the budget, the director shall return the
48 budget to the members of the regional sewerage authority with

1 written information concerning the reasons for the disapproval of
2 the budget.

3 To the extent that the provisions of subsection a. of this section
4 conflict with the provisions of the "Local Authorities Fiscal Control
5 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), subsection a. of this
6 section shall take precedence.

7 (cf: P.L.2017, c.290, s.1)

8

9 ¹~~19.~~ ²20. Section 5 of P.L.1983, c.111 (C.40A:4-35.1) is
10 amended to read as follows:

11 5. To the extent there is available surplus revenue collected by
12 a municipality pursuant to chapter 62 of Title 40 of the Revised
13 Statutes for supplying a utility service which is regulated by the
14 Board of Public Utilities pursuant to subsection d. of N.J.S.40A:31-
15 23, or to the extent there is available surplus revenue collected by a
16 county or municipality from a stormwater utility established
17 pursuant to P.L. , c. (C.) (pending before the Legislature as
18 this bill), an amount not to exceed ~~5%~~ ⁵five percent of the annual
19 costs of operation of the utility may be transferred annually from
20 the accounts of the municipal utility or county utility , as
21 appropriate, and included in the local budget pursuant to
22 N.J.S.40A:4-35.

23 (cf: P.L.1989, c.109, s.2)

24

25 ²~~20.~~ ²21. Section 1 of P.L.1999, c.440 (C.40A:11-4.1) is
26 amended to read as follows:

27 1. Notwithstanding the provisions of any law, rule , or
28 regulation to the contrary, competitive contracting may be used by
29 local contracting units in lieu of public bidding for procurement of
30 specialized goods and services the price of which exceeds the bid
31 threshold, for the following purposes:

32 a. The purchase or licensing of proprietary computer software
33 designed for contracting unit purposes, which may include
34 hardware intended for use with the proprietary software. This
35 subsection shall not be utilized for the purpose of acquiring general
36 purpose computer hardware or software;

37 b. The hiring of a for-profit entity or a not-for-profit entity
38 incorporated under Title 15A of the New Jersey Statutes for the
39 purpose of:

40 (1) the operation and management of a wastewater treatment
41 system , a stormwater management system, or a water supply or
42 distribution facility of the type described in subsection (37) of
43 section 15 of P.L.1971, c.198 (C.40A:11-15), provided that
44 competitive contracting shall not be used as a means of awarding
45 contracts pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and
46 P.L.1985, c.72 (C.58:27-1 et al.);

47 (2) the operation, management or administration of recreation or
48 social service facilities or programs, which shall not include the

- 1 administration of benefits under the Work First New Jersey
2 program established pursuant to P.L.1997, c.38 (C.44:10-55 et
3 seq.), or under General Assistance;
- 4 (3) the operation, management or administration of data
5 processing services; or
- 6 (4) the operation and management of a county hospital pursuant
7 to the "Local Hospital Authority Law," P.L.2006, c.46 (C.30:9-
8 23.15 et al.);
- 9 c. (Deleted by amendment, P.L.2009, c.4).
- 10 d. Homemaker--home health services;
- 11 e. Laboratory testing services;
- 12 f. Emergency medical services;
- 13 g. Contracted food services;
- 14 h. Performance of patient care services by contracted medical
15 staff at county hospitals, correctional facilities and long-term care
16 facilities;
- 17 i. At the option of the governing body of the contracting unit,
18 any good or service that is exempt from bidding pursuant to section
19 5 of P.L.1971, c.198 (C.40A:11-5);
- 20 j. Concessions;
- 21 k. The operation, management or administration of other
22 services, with the approval of the Director of the Division of Local
23 Government Services;
- 24 l. Maintenance, custodial, and groundskeeping services;
- 25 m. Consulting services;
- 26 n. Emergency medical billing services;
- 27 o. Property appraisal services;
- 28 p. Reassessment or revaluation services;
- 29 q. Grant writing services;
- 30 r. Animal control services.

31 Any purpose included herein shall not be considered by a
32 contracting unit as an extraordinary unspecifiable service pursuant
33 to subparagraph (ii) of paragraph (a) of subsection (1) of section 5
34 of P.L.1971, c.198 (C.40A:11-5).

35 As used in this section, "stormwater management system" means
36 the same as that term is defined in section 3 of P.L. , c. (C.)
37 (pending before the Legislature as this bill).

38 (cf: P.L.2016, c.55, s.9)

39

40 ²[21.] 22.² Section 15 of P.L.1971, c.198 (C.40A:11-15) is
41 amended to read as follows:

42 15. All contracts for the provision or performance of goods or
43 services shall be awarded for a period not to exceed 24 consecutive
44 months, except that contracts for professional services pursuant to
45 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
46 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
47 exceed 12 consecutive months. Contracts may be awarded for
48 longer periods of time as follows:

- 1 (1) Supplying of:
 - 2 (a) (Deleted by amendment, P.L.1996, c.113.)
 - 3 (b) (Deleted by amendment, P.L.1996, c.113.)
 - 4 (c) Thermal energy produced by a cogeneration facility, for use
5 for heating or air conditioning or both, for any term not exceeding
6 40 years, when the contract is approved by the Board of Public
7 Utilities. For the purposes of this paragraph, "cogeneration" means
8 the simultaneous production in one facility of electric power and
9 other forms of useful energy such as heating or process steam;
- 10 (2) (Deleted by amendment, P.L.1977, c.53.)
- 11 (3) The collection and disposal of municipal solid waste, the
12 collection and disposition of recyclable material, or the disposal of
13 sewage sludge, for any term not exceeding in the aggregate, five
14 years;
- 15 (4) The collection and recycling of methane gas from a sanitary
16 landfill facility, for any term not exceeding 25 years, when the
17 contract is in conformance with a district solid waste management
18 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
19 with the approval of the Division of Local Government Services in
20 the Department of Community Affairs and the Department of
21 Environmental Protection. The contracting unit shall award the
22 contract to the highest responsible bidder, notwithstanding that the
23 contract price may be in excess of the amount of any necessarily
24 related administrative expenses; except that if the contract requires
25 the contracting unit to expend funds only, the contracting unit shall
26 award the contract to the lowest responsible bidder. The approval
27 by the Division of Local Government Services of public bidding
28 requirements shall not be required for those contracts exempted
29 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);
- 30 (5) Data processing service, for any term of not more than seven
31 years;
- 32 (6) Insurance, including the purchase of insurance coverages,
33 insurance consulting or administrative services, claims
34 administration services and including participation in a joint self-
35 insurance fund, risk management program or related services
36 provided by a contracting unit insurance group, or participation in
37 an insurance fund established by a local unit pursuant to
38 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
39 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
40 than three years;
- 41 (7) Leasing or servicing of (a) automobiles, motor vehicles,
42 machinery, and equipment of every nature and kind, for a period not
43 to exceed five years, or (b) machinery and equipment used in the
44 generation of electricity by a municipal shared services energy
45 authority established pursuant to section 4 of P.L.2015, c.129
46 (C.40A:66-4), or a contracting unit engaged in the generation of
47 electricity, for a period not to exceed 20 years; provided, however, a
48 contract shall be awarded only subject to and in accordance with the

- 1 rules and regulations promulgated by the Director of the Division of
2 Local Government Services in the Department of Community
3 Affairs;
- 4 (8) The supplying of any product or the rendering of any service
5 by a company providing voice, data, transmission, or switching
6 services for a term not exceeding five years;
- 7 (9) Any single project for the construction, reconstruction, or
8 rehabilitation of any public building, structure, or facility, or any
9 public works project, including the retention of the services of any
10 architect or engineer in connection therewith, for the length of time
11 authorized and necessary for the completion of the actual
12 construction;
- 13 (10) The providing of food services for any term not exceeding
14 three years;
- 15 (11) On-site inspections and plan review services undertaken by
16 private agencies pursuant to the "State Uniform Construction Code
17 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
18 more than three years;
- 19 (12) (Deleted by amendment, P.L.2009, c.4).
- 20 (13) (Deleted by amendment, P.L.1999, c.440.)
- 21 (14) (Deleted by amendment, P.L.1999, c.440.)
- 22 (15) Leasing of motor vehicles, machinery, and other equipment
23 primarily used to fight fires, for a term not to exceed ten years,
24 when the contract includes an option to purchase, subject to and in
25 accordance with rules and regulations promulgated by the Director
26 of the Division of Local Government Services in the Department of
27 Community Affairs;
- 28 (16) The provision of water supply services or the designing,
29 financing, construction, operation, or maintenance, or any
30 combination thereof, of a water supply facility, or any component
31 part or parts thereof, including a water filtration system, for a period
32 not to exceed 40 years, when the contract for these services is
33 approved by the Division of Local Government Services in the
34 Department of Community Affairs, the Board of Public Utilities,
35 and the Department of Environmental Protection pursuant to
36 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
37 required for those contracts otherwise exempted pursuant to
38 subsection (30), (31), (34), (35) or (43) of this section. For the
39 purposes of this subsection, "water supply services" means any
40 service provided by a water supply facility; "water filtration
41 system" means any equipment, plants, structures, machinery,
42 apparatus, or land, or any combination thereof, acquired, used,
43 constructed, rehabilitated, or operated for the collection,
44 impoundment, storage, improvement, filtration, or other treatment
45 of drinking water for the purposes of purifying and enhancing water
46 quality and insuring its potability prior to the distribution of the
47 drinking water to the general public for human consumption,
48 including plants and works, and other personal property and

1 appurtenances necessary for their use or operation; and "water
2 supply facility" means and refers to the real property and the plants,
3 structures, or interconnections between existing water supply
4 facilities, machinery and equipment and other property, real,
5 personal, and mixed, acquired, constructed, or operated, or to be
6 acquired, constructed, or operated, in whole or in part by or on
7 behalf of a political subdivision of the State or any agency thereof,
8 for the purpose of augmenting the natural water resources of the
9 State and making available an increased supply of water for all
10 uses, or of conserving existing water resources, and any and all
11 appurtenances necessary, useful, or convenient for the collecting,
12 impounding, storing, improving, treating, filtering, conserving, or
13 transmitting of water and for the preservation and protection of
14 these resources and facilities and providing for the conservation and
15 development of future water supply resources;

16 (17) The provision of resource recovery services by a qualified
17 vendor, the disposal of the solid waste delivered for disposal which
18 cannot be processed by a resource recovery facility or the residual
19 ash generated at a resource recovery facility, including hazardous
20 waste and recovered metals and other materials for reuse, or the
21 design, financing, construction, operation, or maintenance of a
22 resource recovery facility for a period not to exceed 40 years when
23 the contract is approved by the Division of Local Government
24 Services in the Department of Community Affairs, and the
25 Department of Environmental Protection pursuant to P.L.1985, c.38
26 (C.13:1E-136 et al.); and when the resource recovery facility is in
27 conformance with a district solid waste management plan approved
28 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
29 this subsection, "resource recovery facility" means a solid waste
30 facility constructed and operated for the incineration of solid waste
31 for energy production and the recovery of metals and other
32 materials for reuse; or a mechanized composting facility, or any
33 other facility constructed or operated for the collection, separation,
34 recycling, and recovery of metals, glass, paper, and other materials
35 for reuse or for energy production; and "residual ash" means the
36 bottom ash, fly ash, or any combination thereof, resulting from the
37 combustion of solid waste at a resource recovery facility;

38 (18) The sale of electricity or thermal energy, or both, produced
39 by a resource recovery facility for a period not to exceed 40 years
40 when the contract is approved by the Board of Public Utilities, and
41 when the resource recovery facility is in conformance with a district
42 solid waste management plan approved pursuant to P.L.1970, c.39
43 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
44 recovery facility" means a solid waste facility constructed and
45 operated for the incineration of solid waste for energy production
46 and the recovery of metals and other materials for reuse; or a
47 mechanized composting facility, or any other facility constructed or
48 operated for the collection, separation, recycling, and recovery of

- 1 metals, glass, paper, and other materials for reuse or for energy
2 production;
- 3 (19) The provision of wastewater treatment services or the
4 designing, financing, construction, operation, or maintenance, or
5 any combination thereof, of a wastewater treatment system, or any
6 component part or parts thereof, for a period not to exceed 40 years,
7 when the contract for these services is approved by the Division of
8 Local Government Services in the Department of Community
9 Affairs and the Department of Environmental Protection pursuant to
10 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
11 required for those contracts otherwise exempted pursuant to
12 subsection (36) or (43) of this section. For the purposes of this
13 subsection, "wastewater treatment services" means any services
14 provided by a wastewater treatment system, and "wastewater
15 treatment system" means equipment, plants, structures, machinery,
16 apparatus, or land, or any combination thereof, acquired, used,
17 constructed, or operated for the storage, collection, reduction,
18 recycling, reclamation, disposal, separation, or other treatment of
19 wastewater or sewage sludge, or for the final disposal of residues
20 resulting from the treatment of wastewater, including, but not
21 limited to, pumping and ventilating stations, facilities, plants and
22 works, connections, outfall sewers, interceptors, trunk lines, and
23 other personal property and appurtenances necessary for their
24 operation;
- 25 (20) The supplying of goods or services for the purpose of
26 lighting public streets, for a term not to exceed five years;
- 27 (21) The provision of emergency medical services for a term not
28 to exceed five years;
- 29 (22) Towing and storage contracts, awarded pursuant to
30 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
31 (C.40A:11-5) for any term not exceeding three years;
- 32 (23) Fuel for the purpose of generating electricity for a term not
33 to exceed eight years;
- 34 (24) The purchase of electricity or administrative or dispatching
35 services related to the transmission of electricity, from a supplier of
36 electricity subject to the jurisdiction of a federal regulatory agency,
37 from a qualifying small power producing facility or qualifying
38 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
39 supplier of electricity within any regional transmission organization
40 or independent system operator or from an organization or operator
41 or their successors, by a contracting unit engaged in the generation
42 of electricity for retail sale, as of May 24, 1991, for a term not to
43 exceed 40 years, or by a contracting unit engaged solely in the
44 distribution of electricity for retail sale for a term not to exceed ten
45 years, except that a contract with a contracting unit, engaged solely
46 in the distribution of electricity for retail sale, in excess of ten
47 years, shall require the written approval of the Director of the
48 Division of Local Government Services. If the director fails to

1 respond in writing to the contracting unit within 10 business days,
2 the contract shall be deemed approved;

3 (25) Basic life support services, for a period not to exceed five
4 years. For the purposes of this subsection, "basic life support"
5 means a basic level of prehospital care, which includes but need not
6 be limited to patient stabilization, airway clearance,
7 cardiopulmonary resuscitation, hemorrhage control, initial wound
8 care, and fracture stabilization;

9 (26) (Deleted by amendment, P.L.1999, c.440.)

10 (27) The provision of transportation services to an elderly
11 person, an individual with a disability, or an indigent person for any
12 term of not more than three years. For the purposes of this
13 subsection, "elderly person " means a person who is 60 years of age
14 or older. "Individual with a disability" means a person of any age
15 who, by reason of illness, injury, age, congenital malfunction, or
16 other permanent or temporary incapacity or disability, are unable,
17 without special facilities or special planning or design to utilize
18 mass transportation facilities and services as effectively as persons
19 who are not so affected. "Indigent person " means a person of any
20 age whose income does not exceed 100 percent of the poverty level,
21 adjusted for family size, established and adjusted under section
22 673(2) of subtitle B, the "Community Services Block Grant Act,"
23 Pub.L.97-35 (42 U.S.C. s.9902 (2));

24 (28) The supplying of liquid oxygen or other chemicals, for a
25 term not to exceed five years, when the contract includes the
26 installation of tanks or other storage facilities by the supplier, on or
27 near the premises of the contracting unit;

28 (29) The performance of patient care services by contracted
29 medical staff at county hospitals, correction facilities, and long term
30 care facilities, for any term of not more than three years;

31 (30) The acquisition of an equitable interest in a water supply
32 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
33 contract entered into pursuant to the "County and Municipal Water
34 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
35 no later than January 7, 1995, for any term of not more than forty
36 years;

37 (31) The provision of water supply services or the financing,
38 construction, operation, or maintenance or any combination thereof,
39 of a water supply facility or any component part or parts thereof, by
40 a partnership or copartnership established pursuant to a contract
41 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
42 period not to exceed 40 years;

43 (32) Laundry service and the rental, supply, and cleaning of
44 uniforms for any term of not more than three years;

45 (33) The supplying of any product or the rendering of any
46 service, including consulting services, by a cemetery management
47 company for the maintenance and preservation of a municipal

- 1 cemetery operating pursuant to the "New Jersey Cemetery Act,"
2 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;
- 3 (34) A contract between a public entity and a private firm
4 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
5 water supply services may be entered into for any term which, when
6 all optional extension periods are added, may not exceed 40 years;
- 7 (35) A contract for the purchase of a supply of water from a
8 public utility company subject to the jurisdiction of the Board of
9 Public Utilities in accordance with tariffs and schedules of charges
10 made, charged or exacted or contracts filed with the Board of Public
11 Utilities, for any term of not more than 40 years;
- 12 (36) A contract between a public entity and a private firm or
13 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
14 the provision of wastewater treatment services may be entered into
15 for any term of not more than 40 years, including all optional
16 extension periods;
- 17 (37) The operation and management of a facility under a license
18 issued or permit approved by the Department of Environmental
19 Protection, including a wastewater treatment system , a stormwater
20 management system, or a water supply or distribution facility, as
21 the case may be, for any term of not more than ten years. For the
22 purposes of this subsection, "wastewater treatment system" refers to
23 facilities operated or maintained for the storage, collection,
24 reduction, disposal, or other treatment of wastewater or sewage
25 sludge, remediation of groundwater contamination, stormwater
26 runoff, or the final disposal of residues resulting from the treatment
27 of wastewater; "stormwater management system" means the same
28 as that term is defined in section 3 of P.L. , c. (C.) (pending
29 before the Legislature as this bill); and "water supply or distribution
30 facility" refers to facilities operated or maintained for augmenting
31 the natural water resources of the State, increasing the supply of
32 water, conserving existing water resources, or distributing water to
33 users;
- 34 (38) Municipal solid waste collection from facilities owned by a
35 contracting unit, for any term of not more than three years;
- 36 (39) Fuel for heating purposes, for any term of not more than
37 three years;
- 38 (40) Fuel or oil for use in motor vehicles for any term of not
39 more than three years;
- 40 (41) Plowing and removal of snow and ice for any term of not
41 more than three years;
- 42 (42) Purchases made under a contract awarded by the Director of
43 the Division of Purchase and Property in the Department of the
44 Treasury for use by counties, municipalities, or other contracting
45 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
46 term not to exceed the term of that contract;
- 47 (43) A contract between the governing body of a city of the first
48 class and a duly incorporated nonprofit association for the provision

1 of water supply services as defined in subsection (16) of this
2 section, or wastewater treatment services as defined in subsection
3 (19) of this section, may be entered into for a period not to exceed
4 40 years;

5 (44) The purchase of electricity generated through class I
6 renewable energy or from a power production facility that is fueled
7 by methane gas extracted from a landfill in the county of the
8 contracting unit for any term not exceeding 25 years;

9 (45) The provision or performance of goods or services for the
10 purpose of producing class I renewable energy or class II renewable
11 energy, as those terms are defined in section 3 of P.L.1999, c.23
12 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
13 conducted by, the contracting unit, the entire price of which is to be
14 established as a percentage of the resultant savings in energy costs,
15 for a term not to exceed 15 years; provided, however, that a contract
16 shall be entered into only subject to and in accordance with
17 guidelines promulgated by the Board of Public Utilities establishing
18 a methodology for computing energy cost savings and energy
19 generation costs;

20 (46) A power supply contract, as defined pursuant to section 3 of
21 P.L.2015, c.129 (C.40A:66-3), between a member municipality as
22 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and
23 the municipal shared services energy authority established pursuant
24 to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the
25 electric power needs of its members, for the lease, operation, or
26 management of electric generation within a member municipality's
27 corporate limits and franchise area or the purchase of electricity, or
28 the purchase of fuel for generating units for a term not to exceed 40
29 years; and

30 (47) A contract entered into pursuant to paragraph (2) of
31 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
32 a county hospital authority and a manager for the management,
33 operation, and maintenance of a hospital owned by the authority or
34 the county for a term not to exceed 20 years, provided, however,
35 that a contract entered into pursuant to paragraph (2) of subsection
36 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
37 two additional periods, not to exceed five years each.

38 Any contract for services other than professional services, the
39 statutory length of which contract is for three years or less, may
40 include provisions for no more than one two-year, or two one-year,
41 extensions, subject to the following limitations: a. The contract
42 shall be awarded by resolution of the governing body upon a
43 finding by the governing body that the services are being performed
44 in an effective and efficient manner; b. No contract shall be
45 extended so that it runs for more than a total of five consecutive
46 years; c. Any price change included as part of an extension shall be
47 based upon the price of the original contract as cumulatively
48 adjusted pursuant to any previous adjustment or extension and shall

1 not exceed the change in the index rate for the 12 months preceding
2 the most recent quarterly calculation available at the time the
3 contract is renewed; and d. The terms and conditions of the contract
4 remain substantially the same.

5 All multiyear leases and contracts entered into pursuant to this
6 section, including any two-year or one-year extensions, except
7 contracts involving the supplying of electricity for the purpose of
8 lighting public streets and contracts for thermal energy authorized
9 pursuant to subsection (1) above, construction contracts authorized
10 pursuant to subsection (9) above, contracts for the provision or
11 performance of goods or services or the supplying of equipment to
12 promote energy conservation through the production of class I
13 renewable energy or class II renewable energy authorized pursuant
14 to subsection (45) above, contracts for water supply services or for
15 a water supply facility, or any component part or parts thereof
16 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
17 or (43) above, contracts for resource recovery services or a resource
18 recovery facility authorized pursuant to subsection (17) above,
19 contracts for the sale of energy produced by a resource recovery
20 facility authorized pursuant to subsection (18) above, contracts for
21 wastewater treatment services or for a wastewater treatment system
22 or any component part or parts thereof authorized pursuant to
23 subsection (19), (36), (37), or (43) above, contracts for the
24 operation and maintenance of a stormwater management system
25 authorized pursuant to subsection (37) above, and contracts for the
26 purchase of electricity or administrative or dispatching services
27 related to the transmission of electricity authorized pursuant to
28 subsection (24) above, contracts for the purchase of electricity
29 generated from a power production facility that is fueled by
30 methane gas authorized pursuant to subsection (44) above, and
31 power supply contracts authorized pursuant to subsection (46)
32 respectively, shall contain a clause making them subject to the
33 availability and appropriation annually of sufficient funds as may
34 be required to meet the extended obligation, or contain an annual
35 cancellation clause.

36 The Division of Local Government Services in the Department
37 of Community Affairs shall adopt and promulgate rules and
38 regulations concerning the methods of accounting for all contracts
39 that do not coincide with the fiscal year.

40 All contracts shall cease to have effect at the end of the
41 contracted period and shall not be extended by any mechanism or
42 provision, unless in conformance with the "Local Public Contracts
43 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
44 may be extended by mutual agreement of the parties to the contract
45 when a contracting unit has commenced rebidding prior to the time
46 the contract expires or when the awarding of a contract is pending
47 at the time the contract expires.

48 (cf: P.L.2016, c.55, s.10)

1 ²**[22. This act shall take effect on the 180th day after the date of**
2 enactment, but sections 18 through 21 shall take effect
3 immediately.]²

4

5 ²23. Sections 19 through 22 shall take effect immediately and
6 the remainder of this act shall take effect on the 180th day after the
7 date of enactment.²