

§6 - C.40A:4-35.2

§11 –

C.40A:5A-10.1

§13 –

C.40A:5A-20.1

P.L. 2021, CHAPTER 184, *approved July 22, 2021*  
Assembly, No. 5407 (*First Reprint*)

1 AN ACT concerning the financing and operation of water systems,  
2 supplementing Title 40A of the New Jersey Statutes, <sup>1</sup>and<sup>1</sup>  
3 amending various parts of the statutory law<sup>1</sup> **■**, and repealing  
4 section 5 of P.L.2017, c.133 **■**<sup>1</sup>.

5

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

8

9 1. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to  
10 read as follows:

11 3. As used in **■** P.L.1957, c.183 (C.40:14B-1 et seq.) ,  
12 unless a different meaning clearly appears from the context:

13 (1) "Municipality" shall mean any city of any class, any  
14 borough, village, town, township, or any other municipality other  
15 than a county or a school district, and except when used in section  
16 4, 5, 6, 11, 12, 13, 42 or 45 of **■** P.L.1957, c.183  
17 (C.40:14B-4, C.40:14B-5, C.40:14B-6, C.40:14B-11, C.40:14B-12,  
18 C.40:14B-13, C.40:14B-42, or C.40:14B-45) , any agency thereof  
19 or any two or more thereof acting jointly or any joint meeting or  
20 other agency of any two or more thereof;

21 (2) "County" shall mean any county of any class;

22 (3) "Governing body" shall mean, in the case of a county, the  
23 board of chosen freeholders, or in the case of those counties  
24 organized pursuant to the provisions of the "Optional County  
25 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of  
26 chosen freeholders and the county executive, the county supervisor  
27 or the county manager, as appropriate, and, in the case of a  
28 municipality, the commission, council, board or body, by whatever  
29 name it may be known, having charge of the finances of the  
30 municipality;

31 (4) "Person" shall mean any person, association, corporation,  
32 nation, state or any agency or subdivision thereof, other than a  
33 county or municipality of the State or a municipal authority;

34 (5) "Municipal authority," "authority," or "water reclamation  
35 authority" shall mean a public body created or organized pursuant  
36 to section 4, 5 or 6 of **■** P.L.1957, c.183 (C.40:14B-4,  
37 C.40:14B-5, or C.40:14B-6) and shall include a municipal utilities

**EXPLANATION** – Matter enclosed in bold-faced brackets **■** 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:

<sup>1</sup>Assembly ANR committee amendments adopted March 15, 2021.

1 authority created by one or more municipalities and a county  
2 utilities authority created by a county;

3 (6) Subject to the exceptions provided in section 10, 11 or 12 of  
4 **【this act】** P.L.1957, c.183 (C.40:14B-10, C.40:14B-11, or  
5 C.40:14B-12) , "district" shall mean the area within the territorial  
6 boundaries of the county, or of the municipality or municipalities,  
7 which created or joined in or caused the creation or organization of  
8 a municipal authority;

9 (7) "Local unit" shall mean the county, or any municipality,  
10 which created or joined in or caused the creation or organization of  
11 a municipal authority;

12 (8) "Water system" shall mean the plants, structures and other  
13 real and personal property acquired, constructed or operated or to be  
14 acquired, constructed or operated by a municipal authority or by  
15 any person to whom a municipal authority has extended credit for  
16 this purpose for the purposes of the municipal authority, including  
17 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits,  
18 pipelines, mains, pumping stations, water distribution systems,  
19 compensating reservoirs, waterworks or sources of water supply,  
20 wells, purification or filtration plants or other plants and works,  
21 connections, rights of flowage or division, and other plants,  
22 structures, boats, conveyances, and other real and personal property,  
23 and rights therein, and appurtenances necessary or useful and  
24 convenient for the accumulation, supply and redistribution of water.

25 The term "water system" shall include the replacement of service  
26 connections to a publicly-owned water system, from the distribution  
27 main onto privately-owned real property and into a privately-owned  
28 structure, when used in reference to a project undertaken for the  
29 purpose of replacing **【lead-contaminated】** residential<sup>1</sup>, commercial,  
30 and institutional<sup>1</sup> lead service 【connections】 lines, regardless of  
31 possible private service connection ownership **【**, so long as the  
32 project is (a) an environmental infrastructure project, as defined  
33 under section 3 of P.L.1985, c.334 (C.58:11B-3), and (b) funded  
34 either by loans from the New Jersey Infrastructure Bank, created  
35 pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), or by loans  
36 issued through the Department of Environmental Protection**】**;

37 (9) "Sewerage system" shall mean the plants, structures, on-site  
38 wastewater systems and other real and personal property acquired,  
39 constructed or operated or to be acquired, constructed, maintained  
40 or operated by a municipal authority or by any person to whom a  
41 municipal authority has extended credit for this purpose for the  
42 purposes of the municipal authority, including sewers, conduits,  
43 pipelines, mains, pumping and ventilating stations, sewage  
44 treatment or disposal systems, plants and works, connections,  
45 outfalls, compensating reservoirs, and other plants, structures,  
46 boats, conveyances, and other real and personal property, and rights  
47 therein, and appurtenances necessary or useful and convenient for

1 the collection, treatment, purification or disposal in a sanitary  
2 manner of any sewage, liquid or solid wastes, night soil or  
3 industrial wastes;

4 (10) "Utility system" shall mean a water system, solid waste  
5 system, sewerage system, or a hydroelectric system or any  
6 combination of such systems, acquired, constructed or operated or  
7 to be acquired, constructed or operated by a municipal authority or  
8 by any person to whom a municipal authority has extended credit  
9 for this purpose;

10 (11) "Cost" shall mean, in addition to the usual connotations  
11 thereof, the cost of acquisition or construction of all or any part of a  
12 utility system and of all or any property, rights, easements,  
13 privileges, agreements and franchises deemed by the municipal  
14 authority to be necessary or useful and convenient therefor or in  
15 connection therewith and the cost of retiring the present value of the  
16 unfunded accrued liability due and owing by a municipal authority,  
17 as calculated by the system actuary for a date certain upon the  
18 request of a municipal authority, for early retirement incentive  
19 benefits granted by the municipal authority pursuant to P.L.1991,  
20 c.230 and P.L.1993, c.181, including interest or discount on bonds,  
21 cost of issuance of bonds, engineering and inspection costs and  
22 legal expenses, cost of financial, professional and other estimates  
23 and advice, organization, administrative, operating and other  
24 expenses of the municipal authority prior to and during such  
25 acquisition or construction, and all such other expenses as may be  
26 necessary or incident to the financing, acquisition, construction and  
27 completion of said utility system or part thereof and the placing of  
28 the same in operation, and also such provision or reserves for  
29 working capital, operating, maintenance or replacement expenses or  
30 for payment or security of principal of or interest on bonds during  
31 or after such acquisition or construction as the municipal authority  
32 may determine, and also reimbursements to the municipal authority  
33 or any county, municipality or other person of any moneys  
34 theretofore expended for the purposes of the municipal authority or  
35 to any county or municipality of any moneys theretofore expended  
36 for or in connection with water supply, solid waste, water  
37 distribution, sanitation or hydroelectric facilities;

38 (12) "Real property" shall mean lands both within or without the  
39 State, and improvements thereof or thereon, or any rights or  
40 interests therein;

41 (13) "Construct" and "construction" shall connote and include  
42 acts of construction, reconstruction, replacement, extension,  
43 improvement and betterment of a utility system;

44 (14) "Industrial wastes" shall mean liquid or other wastes  
45 resulting from any processes of industry, manufacture, trade or  
46 business or from the development of any natural resource, and shall  
47 include any chemical wastes or hazardous wastes;

- 1 (15) "Sewage" shall mean the water-carried wastes created in  
2 and carried, or to be carried, away from, or to be processed by on-  
3 site wastewater systems, residences, hotels, apartments, schools,  
4 hospitals, industrial establishments, or any other public or private  
5 building, together with such surface or ground water and industrial  
6 wastes and **leacheate** leachate as may be present;
- 7 (16) "On-site wastewater system" means any of several  
8 facilities, septic tanks or other devices, used to collect, treat,  
9 reclaim, or dispose of wastewater or sewage on or adjacent to the  
10 property on which the wastewater or sewage is produced, or to  
11 convey such wastewater or sewage from said property to such  
12 facilities as the authority may establish for its disposal;
- 13 (17) "Pollution" means the condition of water resulting from the  
14 introduction therein of substances of a kind and in quantities  
15 rendering it detrimental or immediately or potentially dangerous to  
16 the public health, or unfit for public or commercial use;
- 17 (18) "Bonds" shall mean bonds or other obligations issued  
18 pursuant to **this act** P.L.1957, c.183 (C.40:14B-1 et seq.) ;
- 19 (19) "Service charges" shall mean water service charges, solid  
20 waste service charges, sewer service charges, hydroelectric service  
21 charges or any combination of such charges, as said terms are  
22 defined in section 21 or 22 of **this act** P.L.1957, c.183 (C.40:14B-  
23 21 or C.40:14B-22) or in section 7 of **this amendatory and**  
24 **supplementary act** P.L.1980, c.34 (C.40:14B-21.1) ;
- 25 (20) "Compensating reservoir" shall mean the structures,  
26 facilities and appurtenances for the impounding, transportation and  
27 release of water for the replenishment in periods of drought or at  
28 other necessary times of all or a part of waters in or bordering the  
29 State diverted into a utility system operated by a municipal  
30 authority;
- 31 (21) "Sewage or water reclamation authority" shall mean a  
32 public body created pursuant to the "sewerage authorities law,"  
33 P.L.1946, c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof  
34 or supplemental thereto;
- 35 (22) "County sewer authority" shall mean a sanitary sewer  
36 district authority created pursuant to the act entitled "An act relating  
37 to the establishment of sewerage districts in first- and second-class  
38 counties, the creation of Sanitary Sewer District Authorities by the  
39 establishing of such districts, prescribing the powers and duties of  
40 any such authority and of other public bodies in connection with the  
41 construction of sewers and sewage disposal facilities in any such  
42 district, and providing the ways and means for paying the costs of  
43 construction and operation thereof," approved April 23, 1946  
44 (P.L.1946, c.123), or the acts amendatory thereof or supplemental  
45 thereto;
- 46 (23) "Chemical waste" shall mean a material normally generated  
47 by or used in chemical, petrochemical, plastic, pharmaceutical,

1 biochemical or microbiological manufacturing processes or  
2 petroleum refining processes, which has been selected for waste  
3 disposal and which is known to hydrolyze, ionize or decompose,  
4 which is soluble, burns or oxidizes, or which may react with any of  
5 the waste materials which are introduced into the landfill, or which  
6 is buoyant on water, or which has a viscosity less than that of water  
7 or which produces a foul odor. Chemical waste may be either  
8 hazardous or nonhazardous;

9 (24) "Effluent" shall mean liquids which are treated in and  
10 discharged by sewage treatment plants;

11 (25) "Hazardous wastes" shall mean any waste or combination  
12 of waste which poses a present or potential threat to human health,  
13 living organisms or the environment. "Hazardous waste" shall  
14 include, but not be limited to, waste material that is toxic, corrosive,  
15 irritating, sensitizing, radioactive, biologically infectious, explosive  
16 or flammable;

17 (26) "Leachate" shall mean a liquid that has been in contact with  
18 solid waste and contains dissolved or suspended materials from that  
19 solid waste;

20 (27) "Recycling" shall mean the separation, collection,  
21 processing or recovery of metals, glass, paper, solid waste and other  
22 materials for reuse or for energy production and shall include  
23 resource recovery;

24 (28) "Sludge" shall mean any solid, semisolid, or liquid waste  
25 generated from a municipal, industrial or other sewage treatment  
26 plant, water supply treatment plant, or air pollution control facility,  
27 or any other such waste having similar characteristics and effects;  
28 "sludge" shall not include effluent;

29 (29) "Solid waste" shall mean garbage, refuse, and other  
30 discarded materials resulting from industrial, commercial and  
31 agricultural operations, and from domestic and community  
32 activities, and shall include all other waste materials including  
33 sludge, chemical waste, hazardous wastes and liquids, except for  
34 liquids which are treated in public sewage treatment plants and  
35 except for solid animal and vegetable wastes collected by swine  
36 producers licensed by the State Department of Agriculture to  
37 collect, prepare and feed such wastes to swine on their own farms;

38 (30) "Solid waste system" shall mean and include the plants,  
39 structures and other real and personal property acquired,  
40 constructed or operated or to be acquired, constructed or operated  
41 by an authority or by any person to whom a municipal authority has  
42 extended credit for this purpose pursuant to the provisions of **【this**  
43 **act】** P.L.1957, c.183 (C.40:14B-1 et seq.) , including transfer  
44 stations, incinerators, recycling facilities, including facilities for the  
45 generation, transmission and distribution of energy derived from the  
46 processing of solid waste, sanitary landfill facilities or other  
47 property or plants for the collection, recycling or disposal of solid  
48 waste and all vehicles, equipment and other real and personal

1 property and rights thereon and appurtenances necessary or useful  
 2 and convenient for the collection, recycling, or disposal of solid  
 3 waste in a sanitary manner;

4 (31) "Hydroelectric system" shall mean the plants, structures  
 5 and other real and personal property acquired, constructed or  
 6 operated or to be acquired, constructed or operated by an authority  
 7 pursuant to the provisions of **[this act]** P.L.1957, c.183 (C.40:14B-  
 8 1 et seq.) , including all that which is necessary or useful and  
 9 convenient for the generation, transmission and sale of  
 10 hydroelectric power at wholesale;

11 (32) "Hydroelectric power" shall mean the production of electric  
 12 current by the energy of moving water;

13 (33) "Sale of hydroelectric power at wholesale" shall mean any  
 14 sale of hydroelectric power to any person for purposes of resale of  
 15 such power;

16 (34) "Alternative electrical energy" shall mean electrical energy  
 17 produced from solar, photovoltaic, wind, geothermal, or biomass  
 18 technologies, provided that in the case of biomass technology, the  
 19 biomass is cultivated and harvested in a sustainable manner;

20 (35) "Alternative electrical energy system" shall mean any  
 21 system which uses alternative electrical energy to provide all or a  
 22 portion of the electricity for the heating, cooling, or general  
 23 electrical energy needs of a building;

24 (36) "Pilot county" shall mean a county of the second class  
 25 having a population between 280,000 and 290,000, a population  
 26 between 510,000 and 520,000, and a population between 530,000  
 27 and 540,000 according to the 2010 federal decennial census; **[and]**

28 (37) "Pilot county utilities authority" shall mean a county  
 29 utilities authority in a county designated as a pilot county; **'[and]'**

30 (38) "Lead service line" means a water supply connection that is  
 31 made of, or lined with, '[materials]' a material<sup>1</sup> consisting of lead  
 32 <sup>1</sup>, <sup>1</sup> and '[that] which<sup>1</sup> connects a water main to a building inlet. A  
 33 lead pigtail, lead gooseneck, or other lead fitting shall be considered  
 34 to be a lead service line, regardless of the '[other materials in]  
 35 composition of<sup>1</sup> the service line<sup>1</sup> or other portions of piping to  
 36 which such piece is attached<sup>1</sup> . A galvanized service line shall be  
 37 considered <sup>1</sup>to be<sup>1</sup> a lead service line. A lead service line may be  
 38 owned by the <sup>1</sup>[supplier of] public community<sup>1</sup> water <sup>1</sup>system<sup>1</sup>, a  
 39 property owner, or both.

40 (cf: P.L.2018, c.114, s.1)

41

42 2. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to  
 43 read as follows:

44 20. Every municipal authority shall be a public body politic and  
 45 corporate constituting a political subdivision of the State  
 46 established as an instrumentality exercising public and essential

1 governmental functions to provide for the public health and welfare  
2 and shall have perpetual succession and have the following powers:

3 (1) To adopt and have a common seal and to alter the same at  
4 pleasure;

5 (2) To sue and be sued;

6 (3) In the name of the municipal authority and on its behalf, to  
7 acquire, hold, use and dispose of its service charges and other  
8 revenues and other moneys;

9 (4) In the name of the municipal authority but for the local unit  
10 or units, to acquire, rent, hold, lease as lessor, use and dispose of  
11 other personal property for the purposes of the municipal authority;

12 (5) In the name of the municipal authority but for the local unit  
13 or units and subject to the limitations of **【this act】** P.L.1957, c.183  
14 (C.40:14B-1 et seq.) , to acquire by purchase, gift, condemnation or  
15 otherwise, or lease as lessee, real property and easements therein,  
16 necessary or useful and convenient for the purposes of the  
17 municipal authority, and subject to mortgages, deeds of trust or  
18 other liens, or otherwise, and to hold, lease as lessor, and to use the  
19 same, and to dispose of property so acquired no longer necessary  
20 for the purposes of the municipal authority;

21 (6) To produce, develop, purchase, accumulate, distribute and  
22 sell water and water services, facilities and products within or  
23 without the district, provided that no water shall be sold at retail in  
24 any municipality or county without the district unless the governing  
25 body of such municipality or county shall have adopted a resolution  
26 requesting the municipal authority to sell water at retail in such  
27 municipality or county, and the board of public utility  
28 commissioners shall have approved such resolution as necessary  
29 and proper for the public convenience;

30 (7) To provide for and secure the payment of any bonds and the  
31 rights of the holders thereof, and to purchase, hold and dispose of  
32 any bonds;

33 (8) To accept gifts or grants of real or personal property, money,  
34 material, labor or supplies for the purposes of the municipal or  
35 county authority, and to make and perform such agreements and  
36 contracts as may be necessary or convenient in connection with the  
37 procuring, acceptance or disposition of such gifts or grants;

38 (9) To enter on any lands, waters or premises for the purpose of  
39 making surveys, borings, soundings and examinations for the  
40 purposes of the municipal authority, and whenever the operation of  
41 a septic tank or other component of an on-site wastewater system  
42 shall result in the creation of pollution or contamination source on  
43 private property such that under the provisions of R.S.26:3-49, a  
44 local board of health would have the authority to notify the owner  
45 and require said owner to abate the same, representatives of an  
46 authority shall have the power to enter, at all reasonable times, any  
47 premises on which such pollution or contamination source shall  
48 exist, for the purpose of inspecting, rehabilitating, securing samples

1 of any discharges, improving, repairing, replacing, or upgrading  
2 such septic tank or other component of an on-site wastewater  
3 system;

4 (10) To establish an inspection program to be performed at least  
5 once every three years on all on-site wastewater systems installed  
6 within the district which inspection program shall contain the  
7 following minimum notice provisions: (i) not less than 30 days  
8 prior to the date of the inspection of any on-site wastewater system  
9 as described herein, the authority shall notify the owner and  
10 resident of the property that the inspection will occur; and (ii) not  
11 less than 60 days prior to the date of the performance of any work  
12 other than an inspection, the municipal authority shall provide  
13 notice to the owner and resident of the property in which the work  
14 will be performed. The notice to be provided to such owner and  
15 resident under this subsection shall include a description of the  
16 deficiency which necessitates the work and the proposed remedial  
17 action, and the proposed date for beginning and duration of the  
18 contemplated remedial action;

19 (11) To prepare and file in the office of the municipal authority  
20 records of all inspections, rehabilitation, maintenance, and work,  
21 performed with respect to on-site wastewater disposal systems;

22 (12) To make and enforce bylaws or rules and regulations for  
23 the management and regulation of its business and affairs and for  
24 the use, maintenance and operation of the utility system and any  
25 other of its properties, and to amend the same;

26 (13) To do and perform any acts and things authorized by **[this**  
27 **act]** P.L.1957, c.183 (C.40:14B-1 et seq.) under, through , or by  
28 means of its own officers, agents and employees, or by contracts  
29 with any person;

30 (14) To enter into any and all contracts, execute any and all  
31 instruments, and do and perform any and all acts or things  
32 necessary, convenient or desirable for the purposes of the municipal  
33 authority or to carry out any power expressly given in **[this act]**  
34 P.L.1957, c.183 (C.40:14B-1 et seq.) subject to the "Local Public  
35 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

36 (15) To extend credit or make loans to any person for the  
37 planning, designing, acquiring, constructing, reconstructing,  
38 improving, equipping, furnishing, and operating by that person of  
39 any part of a solid waste system, sewage treatment system,  
40 wastewater treatment or collection system for the provision of  
41 services and facilities within or without the district, which in the  
42 case of a solid waste system shall be in a manner consistent with the  
43 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)  
44 and in conformance with the solid waste management plans adopted  
45 by the solid waste management districts created therein. The  
46 credits or loans may be secured by loan and security agreements,  
47 mortgages, leases and any other instruments, upon such terms as the  
48 authority shall deem reasonable, including provision for the



1 establishment and maintenance of reserve and insurance funds, and  
2 to require the inclusion in any mortgage, lease, contract, loan and  
3 security agreement or other instrument, provisions for the  
4 construction, use, operation and maintenance and financing of that  
5 part of the aforementioned systems as the authority may deem  
6 necessary or desirable;

7 (16) Upon the request of a customer: (i) to offer the customer  
8 the ability to receive or access, in electronic format, any periodic  
9 bill for service sent by the municipal authority to its customers and  
10 any additional information sent by the municipal authority to its  
11 customers as required by law, provided that any notice of  
12 disconnection, discontinuance or termination of service shall be  
13 sent to a customer in written form at the customer's legal mailing  
14 address in addition to being sent or being made available in  
15 electronic format; and (ii) to provide the customer the option of  
16 paying any such periodic bill via electronic means;

17 (17) In the case of an authority that is a pilot county utilities  
18 authority, to fund improvements to county infrastructure pursuant to  
19 the provisions of subsection b. of section 40 of P.L.1957, c.183  
20 (C.40:14B-40); and

21 (18) To **【construct or reconstruct and】** finance the replacement  
22 of service connections to a publicly-owned water system, from the  
23 distribution main onto privately-owned real property and into the  
24 privately-owned structure, for the purpose of replacing residential<sup>1</sup>,  
25 commercial, and institutional<sup>1</sup> lead 【contaminated】 service  
26 **【connections】** lines, regardless of possible private service  
27 connection ownership **【,** so long as the project is (a) undertaken as  
28 an environmental infrastructure project, as defined under section 3  
29 of P.L.1985, c.334 (C.58:11B-3), and (b) funded either by loans  
30 from the New Jersey Infrastructure Bank, created pursuant to  
31 section 4 of P.L.1985, c.334 (C.58:11B-4), or by loans issued  
32 through the Department of Environmental Protection**】.**

33 (cf: P.L.2018, c.114, s.2)

34

35 3. R.S.40:56-1 is amended to read as follows:

36 R.S.40:56-1. A local improvement is one, the cost of which, or a  
37 portion thereof, may be assessed upon the lands in the vicinity  
38 thereof benefited thereby.

39 Any municipality may undertake any of the following works as a  
40 local improvement; and the governing body thereof may make,  
41 amend, repeal and enforce ordinances for carrying into effect all  
42 powers granted in this section:

43 a. The laying out, opening or establishing of a new street,  
44 alley, or other public highway, or portion thereof.

45 b. The widening, straightening, extension, alteration or  
46 changing in any manner of the location of a street, alley or other  
47 public highway, or portion thereof.

- 1 c. The grading or alteration of the grade of a street, alley or  
2 other public highway, or portion thereof.
- 3 d. The paving, repaving, or otherwise improving or  
4 reimproving a street, alley or other public highway, or portion  
5 thereof.
- 6 e. The curbing or recurbing, guttering or reguttering of a  
7 sidewalk in, upon, or along a street, alley or other public highway,  
8 or portion thereof.
- 9 f. The construction, reconstruction, improvement and  
10 reimprovement of bridges and viaducts.
- 11 g. The construction, reconstruction, improvement,  
12 reimprovement or relocation of a public walk or driveway on any  
13 beach, or along the ocean or any river or other waterway.
- 14 h. The improvement or reimprovement of any beach or water  
15 front, and the providing of suitable protection to prevent damage to  
16 lands or property by the ocean or other waters, including the filing  
17 in and grading necessary for the protection of such improvements.
- 18 i. The construction, reconstruction, enlargement or extension  
19 of a sewer or drain in, under or along a street, alley or public  
20 highway, or portion thereof, or in, under or along any public or  
21 private lands; the construction, reconstruction, enlargement or  
22 extension of a system of sewerage or drainage or both combined;  
23 the construction, reconstruction, enlargement or extension of a  
24 system of drainage of the marshes and wet lowlands within the  
25 municipality; the construction, reconstruction, enlargement or  
26 alteration of a system of works for the sanitary disposal of sewage  
27 or drainage.
- 28 j. (1) The installation of service connections to a system of  
29 water, gas, light, heat or power works owned by a municipality or  
30 otherwise, including all such works as may be necessary for  
31 supplying water, gas, light, heat or power to real estate for whose  
32 benefit such services are provided. This authorization includes, but  
33 shall not be limited to, the installation of service connections to a  
34 publicly-owned water system, from the distribution main onto  
35 privately-owned real property and into the privately-owned  
36 structure, for the purpose of replacing **【lead-contaminated】**  
37 residential<sup>1</sup>, commercial, and institutional<sup>1</sup> lead service  
38 **【connections】** lines, regardless of possible private service  
39 connection ownership **【**, so long as the project is (a) undertaken as  
40 an environmental infrastructure project, as defined under section 3  
41 of P.L.1985, c.334 (C.58:11B-3), and (b) funded either by loans  
42 from the New Jersey Infrastructure Bank, created pursuant to  
43 section 4 of P.L.1985, c.334 (C.58:11B-4), or by loans issued  
44 through the Department of Environmental Protection**】**;
- 45 (2) The installation of service connections including the laying,  
46 construction or placing of mains, conduits or cables in, under or  
47 along a street, alley or other public highway or portion thereof.

1 k. The construction, reconstruction, enlargement or extension  
2 of any water main or other works for the distribution of water  
3 supplied by the State or any of its political subdivisions, or any  
4 public agency of any of the same.

5 l. The installation of such lighting standards, appliances and  
6 appurtenances as may be required for the brilliant illumination of  
7 the streets in those parts of the municipality where the governing  
8 body of the municipality may deem it necessary or proper to  
9 establish what is commonly called a "white way."

10 m. The widening, deepening or improvement of any stream,  
11 creek, river or other waterway.

12 n. The removal of obstructions in, and the constructing,  
13 reconstructing, enlarging or extending of any waterway, of  
14 enclosing walls, or of a pipe or conduit or any brook or  
15 watercourse, or part of same.

16 o. The defining of the location and the establishment of widths,  
17 grades and elevations of any stream, creek, river or other waterway,  
18 and the preventing of encroachments upon the same.

19 p. The reclaiming, filling and improving and bulkheading and  
20 filling in lands lying under tidal or other water, in whole or in part,  
21 within the municipality; the reclaiming or filling or bulkheading  
22 and filling those lands or lands adjacent to such reclaimed or filled  
23 lands; to dredge channels or improve harbor approaches in the  
24 waters abounding the lands to be reclaimed, filled and improved, or  
25 bulkheaded and filled; provided, the approval of the **【Planning and**  
26 **Development Council of the Division of Planning and Development**  
27 **in the Department of Conservation and Economic Development of**  
28 **the State of New Jersey】 Tidelands Resource Council established**  
29 **pursuant to section 10 of P.L.1948, c.448 (C.13:1B-10)** , and when  
30 necessary, the permission of the **【Federal】 federal** authorities in  
31 charge of the district port in which the improvements are proposed  
32 to be made, to improve and dredge channels and construct and  
33 improve the harbor approaches to those lands, shall be first had and  
34 obtained.

35 The governing body may enter into agreements with the **【Federal**  
36 **Government】 federal government** for reimbursement to the  
37 municipality for all or a portion of the cost of dredging channels or  
38 improving harbor approaches in waters under the jurisdiction of the  
39 **【Federal Government】 federal government** .

40 If any portion of the amount assessed against the lands within the  
41 municipality for the improvement shall be reimbursed to the  
42 municipality by the **【Federal Government】 federal government** after  
43 the assessment has been made, then a credit shall be made on each  
44 assessment levied in proportion to the amount so received from the  
45 **【Federal Government】 federal government** ; provided, the amount  
46 received by the municipality from the **【Federal Government】**

1 federal government shall be in excess of the amount fixed in the  
2 assessment to be borne by the municipality at large.

3 If any portion of the land included within lands benefited or  
4 improved by any work done in connection with the reclaiming,  
5 filling or bulkheading and filling shall be riparian lands or lands  
6 under water, for which the riparian grant has not theretofore been  
7 made by the State, the municipal board or body authorized to make  
8 assessments for improvements in accordance with this subtitle may  
9 include in any such assessment a prospective assessment against the  
10 riparian lands or lands under water, and a copy of such prospective  
11 assessment shall be filed with the **【Planning and Development**  
12 **Council of the Division of Planning and Development in the**  
13 **Department of Conservation and Economic Development of the**  
14 **State of New Jersey】 Tidelands Resource Council and shall be a**  
15 **part of the records of that council. Upon the sale or grant by the**  
16 **State of the riparian rights to any such lands for which a prospective**  
17 **assessment has been filed with the council, the amount of such**  
18 **prospective assessment together with interest at the rate of five 【per**  
19 **centum (5%) per annum】 percent annually from the time of the**  
20 **confirmation of the assessment for the improvement shall be**  
21 **included by 【said Planning and Development Council】 the**  
22 **Tidelands Resource Council in the purchase price fixed for such**  
23 **lands and made a part of the payment for the grant, and the amount**  
24 **of the assessment with interest, when paid, shall be turned over by**  
25 **【said Planning and Development Council】 the Tidelands Resource**  
26 **Council to the municipality making the assessment. Such**  
27 **prospective assessment shall also be included in the general**  
28 **assessment for and against any such riparian lands or lands under**  
29 **water for which an annual rental or fee is being charged or collected**  
30 **by 【said Planning and Development Council】 the Tidelands**  
31 **Resource Council under any agreement by which the fee of any**  
32 **such riparian lands is passed, and when the fee does so pass by**  
33 **grant from the State the prospective assessment shall become**  
34 **immediately due and payable, together with interest thereon at the**  
35 **rate of five 【per centum (5%) per annum】 percent annually from**  
36 **the time of the confirmation of the assessment for the improvement**  
37 **and the assessment shall become a lien upon those lands until paid**  
38 **and shall be collectible as other liens for public improvements in**  
39 **the municipality. Should 【said Planning and Development**  
40 **Council】 the Tidelands Resource Council lease for a term of years**  
41 **any such riparian lands or lands under water, included within lands**  
42 **benefited or improved by any work done in connection with the**  
43 **reclaiming, filling or bulkheading and filling, it shall include in the**  
44 **annual rental to be charged therefor one-tenth of the amount of the**  
45 **prospective assessment for each year of the term not exceeding ten**  
46 **years until the prospective assessment and the interest thereon at the**  
47 **rate of five 【per centum (5%) per annum】 percent annually from**

1 the time of confirmation of the assessment for the improvement,  
2 shall be paid. If the lease shall be for a period less than ten years,  
3 such provision shall be contained in any and all extensions and  
4 renewals thereof, or in any new leases until the full prospective  
5 assessment with such interest shall have been paid. Nothing  
6 contained in this subparagraph shall apply to lands owned by a  
7 company whose rates are subject to regulation by the Board of  
8 Public **【Utility Commissioners】** Utilities.

9 Whenever convenient more than one of the works provided for in  
10 this section may be carried on as one improvement. Any  
11 municipality may undertake any or all of the works mentioned in  
12 this section as a general improvement to be paid for by general  
13 taxation, and any municipality may provide for the maintenance,  
14 repair and operation of any or all of said works by taxation whether  
15 the same are undertaken as local or general improvements.

16 (cf: P.L.2018, c.114, s.3)

17

18 4. R.S.40:56-35 is amended to read as follows:

19 40:56-35. The governing body may by resolution provide that  
20 the owner of any real estate upon which any assessments for any  
21 improvement shall have been made may pay such assessments in  
22 such equal yearly or quarterly installments, not exceeding ten years  
23 in duration, except as hereinafter provided, with legal interest  
24 thereon, and at such time in each year as the governing body shall  
25 determine, but any person assessed may pay the whole of any  
26 assessment, or any balance of installments, with accrued interest  
27 thereon, at one time. If any such installment shall remain unpaid  
28 for 30 days after the time when the same shall have become due,  
29 either:

30 a. the whole assessment or balance due thereon shall become  
31 and be immediately due, shall draw interest at the rate imposed  
32 upon the arrearage of taxes in such municipality and be collected in  
33 the same manner as is provided by this subtitle for other past due  
34 assessments; or

35 b. the governing body may, by resolution, permit any person  
36 who is delinquent in the payment of such an installment to pay only  
37 the amount of the delinquent payment and any interest on the  
38 delinquent payment that has accrued from the date that the  
39 installment was due and payable until the date that payment of the  
40 delinquent installment is made. After the delinquent installment is  
41 satisfied, the person assessed shall be reinstated on a regular  
42 installment payment schedule.

43 Whenever any owner shall be given the privilege of paying any  
44 assessment in installments such assessment shall remain a lien upon  
45 the land described therein until the same with all installments and  
46 accrued interest thereon shall be paid, and no proceedings to collect  
47 or enforce the same need be taken until default shall be made in the  
48 payment of any installment as hereinbefore in this subtitle provided.

1 In any municipality which is constructing a local improvement  
2 with funds secured from the **【Federal Government】** federal  
3 government , through the public works administration, under the  
4 terms of the national recovery act, the governing body may provide  
5 that the assessments may be payable in yearly or quarterly  
6 installments, with legal interest thereon, over a period of years up to  
7 but in no event exceeding the term of years for which the funds  
8 therefor are borrowed from the Federal Government, and at such  
9 time in each year as the governing body shall determine. The  
10 governing body may fix the yearly installments in such amounts as  
11 in its opinion are equitable and just.

12 In any municipality in which the local improvement is being  
13 financed by the sale of bonds, the governing body may provide that  
14 the assessments may be payable in yearly or quarterly installments,  
15 with legal interest thereon, over a period of years up to but in no  
16 event exceeding the period of years for which the bonds were  
17 issued, or for 20 years, whichever shall be less, and at such time in  
18 each year as the governing body shall determine. In the case of  
19 assessments for the replacement of service connections to a  
20 publicly-owned water system, from the distribution main onto  
21 privately-owned real property and into a privately-owned structure,  
22 when used in reference to a project undertaken for the purpose of  
23 replacing residential<sup>1</sup>, commercial, and institutional<sup>1</sup> lead service  
24 lines, regardless of possible private service connection ownership,  
25 the period of years may be greater than 20 years but shall not  
26 exceed 30 years. The governing body may fix the yearly  
27 installments in such amounts as in its opinion are equitable and just.  
28 (cf: P.L.1997, c.5, s.1)

29

30 5. N.J.S.40A:2-22 is amended to read as follows:

31 40A:2-22. The governing body of the local unit shall determine  
32 the period of usefulness of any purpose according to its reasonable  
33 life computed from the date of the bonds, which period shall not be  
34 greater than the following:

35 a. Buildings and structures.

36 1. Bridges, including retaining walls and approaches, or  
37 permanent structures of brick, stone, concrete or metal, or similar  
38 durable construction, 30 years.

39 2. Buildings, including the original furnishings and equipment  
40 therefor:

41 Class A: A building, of which all walls, floors, partitions, stairs  
42 and roof are wholly of incombustible material, except the window  
43 frames, doors, top flooring and wooden handrails on the stairs, 40  
44 years;

45 Class B: A building, the outer walls of which are wholly of  
46 incombustible material, except the window frames and doors, 30  
47 years;

- 1 Class C: A building which does not meet the requirements of  
2 Class A or Class B, 20 years.
- 3 3. Buildings or structures acquired substantially reconstructed  
4 or additions thereto, one-half the period fixed in this subsection for  
5 such buildings or structures.
- 6 4. Additional furnishings, five years.
- 7 b. Marine improvements.
- 8 1. Harbor improvements, docks or marine terminals, 40 years.
- 9 2. Dikes, bulkheads, jetties or similar devices of stone,  
10 concrete or metal, 15 years; of wood or partly of wood, 10 years.
- 11 c. Additional equipment and machinery.
- 12 1. Additional or replacement equipment and machinery, 15  
13 years.
- 14 2. Voting machines, 15 years.
- 15 3. Information technology and telecommunications equipment,  
16 7 years, except that for items with a unit cost of less than \$5,000, 5  
17 years.
- 18 d. Real property.
- 19 1. Acquisition for any public purpose of lands or riparian  
20 rights, or both, and the original dredging, grading, draining or  
21 planting thereof, 40 years.
- 22 2. Improvement of airport, cemetery, golf course, park,  
23 playground, 15 years.
- 24 3. Stadia of concrete or other incombustible materials, 20  
25 years.
- 26 e. Streets or thoroughfares.
- 27 1. Elimination of grade crossings, 35 years.
- 28 2. Streets or roads:
- 29 Class A: Rigid pavement. A pavement of not less than eight  
30 inches of cement concrete or a six-inch cement concrete base with  
31 not less than three-inch bituminous concrete surface course, or  
32 equivalent wearing surface, 20 years.
- 33 Flexible pavement. A pavement not less than 10 inches in depth  
34 consisting of five-inch macadam base, three-inch modified  
35 penetration macadam and three-inch bituminous concrete surface  
36 course or other pavements of equivalent strength, in accordance  
37 with the findings of the American Association of State Highway  
38 Officials (AASHO) Road Test, 20 years.
- 39 Class B: Mixed surface-treated road. An eight-inch surface of  
40 gravel, stone or other selected material under partial control mixed  
41 with cement or lime and fly ash, six inches in compacted thickness  
42 with bituminous surface treatment and cover, 10 years.
- 43 Bituminous penetration road. A five-inch gravel or stone base  
44 course and a three-inch course bound with a bituminous or  
45 equivalent binder, 10 years.
- 46 Class C: Mixed bituminous road. An eight-inch surface of  
47 gravel, stone, or other selected material under partial control mixed

- 1 with bituminous material one inch or more in compacted thickness,  
2 five years.
- 3 Penetration macadam road. A road of sand, gravel or water-  
4 bound macadam, or surfacing with penetration macadam, five years.
- 5 3. Sidewalks, curbs and gutters of stone, concrete or brick, 10  
6 years.
- 7 The period of usefulness in this subsection shall apply to  
8 construction and reconstruction of streets and thoroughfares.
- 9 f. Utilities and municipal systems.
- 10 1. Sewerage system, whether sanitary or storm water, water  
11 supply or distribution system, 40 years.
- 12 2. Electric light, power or gas systems, garbage, refuse or ashes  
13 incinerator or disposal plant, 25 years.
- 14 3. Communication and signal systems, 10 years.
- 15 4. **【House】** Service connections to publicly-owned gas, water  
16 or sewerage systems from the service main in the street to the curb  
17 or property lines where not part of original installation, five years.
- 18 5. **【House】** Service connections to publicly-owned water  
19 systems, from the distribution main onto privately-owned real  
20 property and into the privately-owned structure, for the purpose of  
21 replacing **【**lead-contaminated house connections, so long as the  
22 project is (a) undertaken as an environmental infrastructure project,  
23 as defined under section 3 of P.L.1985, c.334 (C.58:11B-3), and (b)  
24 funded either by loans from the New Jersey Infrastructure Bank,  
25 created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4), or by  
26 loans issued through the Department of Environmental Protection**】**  
27 residential<sup>1</sup>, commercial, and institutional<sup>1</sup> lead service lines, 30  
28 years.
- 29 g. Vehicles and apparatus.
- 30 1. Fire engines, apparatus and equipment, when purchased  
31 new, but not fire equipment purchased separately, 10 years.
- 32 2. Automotive vehicles, including original apparatus and  
33 equipment (other than passenger cars and station wagons), when  
34 purchased new, five years.
- 35 3. Major repairs, reconditioning or overhaul of fire engines and  
36 apparatus, ambulances, rescue vehicles, and similar public safety  
37 vehicles (other than passenger cars and station wagons) which may  
38 reasonably be expected to extend for at least five years the period of  
39 usefulness thereof, five years.
- 40 h. The closure of a sanitary landfill facility utilized, owned or  
41 operated by a county or municipality, 15 years; provided that the  
42 closure has been approved by the Board of Public Utilities and the  
43 Department of Environmental Protection. For the purposes of this  
44 subsection "closure" means all activities associated with the design,  
45 purchase or construction of all measures required by the  
46 Department of Environmental Protection, pursuant to law, in order  
47 to prevent, minimize or monitor pollution or health hazards



1 resulting from sanitary landfill facilities subsequent to the  
2 termination of operations at any portion thereof, including, but not  
3 necessarily limited to, the costs of the placement of earthen or  
4 vegetative cover, and the installation of methane gas vents or  
5 monitors and leachate monitoring wells or collection systems at the  
6 site of any sanitary landfill facility.

7 i. (Deleted by amendment, P.L.2007, c.62.)

8 j. The prefunding of a claims account for environmental  
9 liability claims by an environmental impairment liability insurance  
10 pool pursuant to P.L.1993, c.269 (C.40A:10-38.1 et al.), 20 years.

11 (cf: P.L.2018, c.114, s.4)

12

13 6. (New section) a. A local unit shall be required to conduct a  
14 periodic study of the adequacy and reasonableness of the rates, fees,  
15 rents, and charges for <sup>1</sup>~~each~~ a<sup>1</sup> water ~~utility~~ system<sup>1</sup> that the  
16 local unit owns or operates through a utility<sup>1</sup>. The Local Finance  
17 Board in the Department of Community Affairs shall adopt,  
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
19 (C.52:14B-1 et seq.), the procedures, requirements, and frequency  
20 of the study. Each completed study shall be submitted to the  
21 Director of the Division of Local Government Services in the  
22 Department of Community Affairs along with the annual budget of  
23 the local unit.

24 b. The director may summon appropriate officials of the local  
25 unit to a hearing before the Local Finance Board if the director  
26 determines that the rates, fees, rents, or charges for a water system  
27 that the local unit owns or operates through a<sup>1</sup> utility may not be  
28 adequate or reasonable as determined by the study conducted  
29 pursuant to subsection a. of this section, or if the local unit fails to  
30 conduct a study pursuant to subsection a. of this section. The Local  
31 Finance Board may require the production of papers, documents,  
32 witnesses, or information and may take or cause to be made an audit  
33 or investigation of the circumstances with respect to which the  
34 hearing was called. After the hearing, the Local Finance Board  
35 shall have the power to order the local unit to adjust the utility's  
36 water system-related<sup>1</sup> rents, rates, fees, or charges ~~of a water~~  
37 utility<sup>1</sup>, or take such other action as the Local Finance Board  
38 deems appropriate to ensure the integrity of the utility's water  
39 infrastructure, and this order shall be valid and enforceable  
40 notwithstanding any provision of R.S.48:2-1 et seq. to the contrary.

41

42 7. N.J.S.40A:4-43 is amended to read as follows:

43 40A:4-43. The governing body may and shall, when directed by  
44 the local government board, prepare, approve and adopt a budget  
45 for the expenditure of public funds for capital purposes to give  
46 effect to general improvement programs.

1 A capital budget shall be a plan for the expenditure of public  
2 funds for capital purposes, showing as income the revenues, special  
3 assessments, free surplus, and down payment appropriations to be  
4 applied to the cost of a capital project or projects, expenses of  
5 issuance of obligations, engineering supervision, contracts and any  
6 other related expenditures. The capital budget for a local unit that  
7 is required to prepare an asset management plan pursuant to section  
8 7 of the "Water Quality Accountability Act," P.L.2017, c.133  
9 (C.58:31-7) or that holds a permit pursuant to the "Water Pollution  
10 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) shall identify the  
11 infrastructure improvements to be undertaken in accordance with  
12 the local unit's asset management plan or pursuant to any rule or  
13 regulation pertaining to asset management adopted by the  
14 Commissioner of Environmental Protection pursuant to P.L.1977,  
15 c.74 (C.58:10A-1 et seq.), as applicable, and their cost.  
16 (cf: N.J.S.40A:4-43)

17

18 8. N.J.S.40A:4-44 is amended to read as follows:

19 40A:4-44. The local government board shall adopt, and may  
20 from time to time amend, reasonable rules and regulations for  
21 capital budgets. Regulations may classify the type of budget  
22 required, according to the size of the local unit, the nature of the  
23 capital projects or any other reasonable basis of distinction, and  
24 shall require a statement of capital undertakings underway or  
25 projected for a period not greater than over the next ensuing 6 years  
26 as a general improvement program. The statement of capital  
27 undertakings for local unit that is required to prepare an asset  
28 management plan pursuant to section 7 of the "Water Quality  
29 Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a  
30 permit pursuant to the "Water Pollution Control Act," P.L.1977,  
31 c.74 (C.58:10A-1 et seq.) shall identify the infrastructure  
32 improvements to be undertaken in accordance with the local unit's  
33 asset management plan or pursuant to any rule or regulation  
34 pertaining to asset management adopted by the Commissioner of  
35 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1  
36 et seq.), as applicable, and their cost.

37 After promulgation of regulations by the local government  
38 board, the governing body shall expend or incur obligations for  
39 capital purposes only after the adoption of a capital budget and in  
40 accordance with such budget except for the preliminary expense of  
41 plans, specifications and estimates.

42 (cf: N.J.S.40A:4-44)

43

44 9. N.J.S.40A:4-78 is amended to read as follows:

45 40A:4-78. a. If the director finds that all requirements of law  
46 and of the regulations of the local government board have been met,  
47 **[he]** the director shall approve the budget, otherwise **[he]** the  
48 director shall refuse to approve it.

1 The director, in refusing to approve a budget, shall not substitute  
2 **[his]** the director's discretion with respect to the amount of an  
3 appropriation when such amount is not made mandatory because of  
4 the requirements of law. If a budget fails to incorporate  
5 infrastructure improvements identified in an asset management plan  
6 required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) or any  
7 rule or regulation pertaining to asset management adopted by the  
8 Commissioner of Environmental Protection pursuant to P.L.1977,  
9 c.74 (C.58:10A-1 et seq.), as applicable, the director may order the  
10 inclusion of the improvements, along with any revenues or  
11 appropriations necessary to fund and effectuate the improvements.  
12 The director may order such other measures as the director deems  
13 necessary to ensure the integrity of the local unit's water  
14 infrastructure; however, the director may take into account the local  
15 unit's fiscal circumstances in determining appropriate measures.

16 b. Notwithstanding the provisions of N.J.S.40A:4-10 and  
17 N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is  
18 authorized to adopt rules, pursuant to the "Administrative Procedure  
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain  
20 municipalities from the requirement that the director approve their  
21 annual budgets and to provide instead for a system of local  
22 examination and approval of such budgets by municipal officials,  
23 provided that:

24 (1) the director finds that such municipalities are fiscally sound  
25 and that their fiscal practices are conducted in accordance with law  
26 and sound administrative practice;

27 (2) the director shall examine the budgets of such municipalities  
28 in accordance with the provisions of N.J.S.40A:4-10 and  
29 N.J.S.40A:4-76 through 40A:4-79, at least every third year;

30 (3) the governing body and chief financial officer of each such  
31 municipality shall each file a certification with the director stating  
32 that, with reference to the adopted budget of the municipality, they  
33 have:

34 (a) examined the budget in the manner prescribed under  
35 N.J.S.40A:4-76;

36 (b) determined that the budget complies with the requirements  
37 set forth in N.J.S.40A:4-77; and

38 (c) determined that the budget complies with all other  
39 provisions of law, including, but not limited to, the "Local Budget  
40 Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.),  
41 and the regulations of the Local Finance Board;

42 (4) all budget documents required by law or the regulations  
43 adopted by the Local Finance Board shall be filed with the director  
44 on a timely basis;

45 (5) other criteria and responsibilities as established by the  
46 regulations adopted by the Local Finance Board are met.

47 c. The director shall act to require immediate compliance with  
48 the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds

1 that any such exemption impairs the fiscal integrity or solvency of  
2 any such municipality. Any appeal of a governing body's action in  
3 adopting an annual budget shall be made to the director.

4 d. If a municipality has received approval for a special  
5 emergency appropriation pursuant to subsection m. of N.J.S.40A:4-  
6 53, that municipality shall not be eligible for local examination and  
7 approval pursuant to subsection b. of this section until the fiscal  
8 year after the final appropriation is made.

9 (cf: P.L.2020, c.74, s.4)

10

11 10. Section 10 of P.L.1983, c.313 (C.40A:5A-10) is amended to  
12 read as follows:

13 10. a. Each authority shall submit a budget for each fiscal year  
14 to the director prior to its adoption thereof. The budget shall  
15 comply with the terms and provisions of any bond resolutions, and  
16 shall be in such form and detail as to items of revenue, expenditure  
17 and other content as shall be required by law or by rules and  
18 regulations of the Local Finance Board.

19 b. The Local Finance Board shall prescribe by rule or  
20 regulation the procedure for the adoption of budgets by authorities.  
21 The rules and regulations may include or be similar to any  
22 provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.) which  
23 the Local Finance Board shall deem to be practicable or necessary,  
24 and may further include any other provisions and requirements  
25 which the Local Finance Board shall deem appropriate or necessary.  
26 The rules and regulations shall provide for approval or disapproval  
27 of a budget within 45 days of the director's receipt thereof.

28 c. The Local Finance Board shall also prescribe by rule or  
29 regulation the procedures and requirements for execution of any  
30 budget after adoption, and for the administration of financial affairs  
31 of authorities. The rules and regulations may include, without  
32 limitation, any provisions of the "Local Budget Law" (N.J.S.40A:4-  
33 1 et seq.), and the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et  
34 seq.), which the Local Finance Board shall deem to be practicable  
35 and necessary.

36 d. Notwithstanding the provisions of subsection a. of this  
37 section and **【N.J.S.40A:5A-11】** section 11 of P.L.1983, c.313  
38 (C.40A:5A-11) , the Local Finance Board is authorized to adopt  
39 rules and regulations, pursuant to the "Administrative Procedure  
40 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain  
41 authorities from the requirement that the director approve their  
42 annual budgets and to provide instead for a system of local  
43 examination and approval of such budgets by authority officials,  
44 provided that:

45 (1) the director finds that such authorities are fiscally sound and  
46 that their fiscal practices are conducted in accordance with law and  
47 sound administrative practice;

1 (2) the director shall examine the budgets of such authorities in  
 2 accordance with the provisions of this section and **[N.J.S.40A:5A-**  
 3 **11]** section 11 of P.L.1983, c.313 (C.40A:5A-11) , at least every  
 4 third year;

5 (3) the governing body and chief financial officer of each such  
 6 authority shall each file a certification with the director stating that,  
 7 with reference to the adopted budget of the authority, they have:

8 (a) examined the budget in the manner prescribed under this  
 9 section and **[N.J.S.40A:5A-11]** section 11 of P.L.1983, c.313  
 10 (C.40A:5A-11) , and determined that the budget complies with  
 11 requirements set forth therein; and

12 (b) determined that the budget complies with all other  
 13 provisions of law, including, but not limited to, the "Local  
 14 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et  
 15 seq.), and the regulations of the Local Finance Board;

16 (4) all budget documents required by law or the regulations  
 17 adopted by the Local Finance Board shall be filed with the director  
 18 on a timely basis;

19 (5) other criteria and responsibilities as established by the  
 20 regulations adopted by the Local Finance Board are met.

21 The director shall act to require immediate compliance with the  
 22 "Local Authorities Fiscal Control Law," P.L.1983, c.313  
 23 (C.40A:5A-1 et seq.), if the director finds that any such exemption  
 24 impairs the fiscal integrity or solvency of any such authority. Any  
 25 appeal of a governing body's action in adopting an annual budget  
 26 shall be made to the director.

27 e. The budget for an authority that is required to prepare an  
 28 asset management plan pursuant to section 7 of the "Water Quality  
 29 Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a  
 30 permit pursuant to the "Water Pollution Control Act," P.L.1977,  
 31 c.74 (C.58:10A-1 et seq.) shall identify the infrastructure  
 32 improvements to be undertaken in accordance with the authority's  
 33 asset management plan or pursuant to any rule or regulation  
 34 pertaining to asset management plans adopted by the Commissioner  
 35 of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-  
 36 1 et seq.), as applicable.

37 (cf: P.L.2015, c.95, s.18)

38

39 11. (New section) a. A <sup>1</sup>**[water] municipal utilities<sup>1</sup>** authority  
 40 <sup>1</sup>with a water supply operation<sup>1</sup> shall be required to conduct a  
 41 periodic study of the adequacy and reasonableness <sup>1</sup>**[its] of the<sup>1</sup>**  
 42 rates, fees, rents, or charges <sup>1</sup>for the operation<sup>1</sup>. The Local Finance  
 43 Board in the Department of Community Affairs shall adopt,  
 44 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
 45 (C.52:14B-1 et seq.), the procedures, requirements, and frequency  
 46 of the study. Each completed study shall be submitted to the  
 47 Director of the Division of Local Government Services in the

1 Department of Community Affairs along with the annual budget of  
2 the authority.

3 b. The director may summon appropriate officials of the  
4 authority to a hearing before the Local Finance Board if the director  
5 determines that the authority's rates, fees, rents, or charges may not  
6 be adequate or reasonable as supported by a study conducted  
7 pursuant to subsection a. of this section, or if the authority fails to  
8 conduct a study pursuant to subsection a. of this section. The Local  
9 Finance Board may require the production of papers, documents,  
10 witnesses, or information and may take or cause to be made an audit  
11 or investigation of the circumstances with respect to which the  
12 hearing was called. After the hearing, the Local Finance Board  
13 shall have the power to order ~~'[a water] the'~~<sup>1</sup> authority to adjust the  
14 rents, rates, fees, or charges ~~'[of the authority] for its water supply~~  
15 ~~operation'~~<sup>1</sup>, or take such other action as the Local Finance Board  
16 deems appropriate to ensure the integrity of the water infrastructure  
17 owned by the ~~'[utility] authority'~~<sup>1</sup>, and this order shall be valid and  
18 enforceable notwithstanding any provision of R.S.48:2-1 et seq. to  
19 the contrary.  
20

21 12. Section 11 of P.L.1983, c.313 (C.40A:5A-11) is amended to  
22 read as follows:

23 11. No authority budget subject to the provisions of subsection  
24 a. of section 10 of P.L.1983, c.313 (C.40A:5A-10) shall be finally  
25 adopted until the director shall have approved same. In granting the  
26 approval, the director shall consider whether or not:

27 a. All estimates of revenue are reasonable, accurate and  
28 correctly stated;

29 b. Items of appropriation are properly set forth;

30 c. In itemization, form and content, the budget will permit the  
31 exercise of the comptroller function within the authority;

32 d. The schedule of rates, fees and charges then in effect will  
33 produce sufficient revenues, together with all other anticipated  
34 revenues, to satisfy all obligations to the holders of bonds of the  
35 authority, to meet operating expenses, capital outlays, debt service  
36 requirements, and to provide for such reserves, all as may be  
37 required by law, regulation or terms of contracts and agreements.

38 The director may require such documentation, records and other  
39 information, and undertake any audit or investigation, as ~~['he] the~~  
40 ~~director~~ may deem necessary in connection with ~~['his] the~~ review.

41 If the director finds that all requirements of law and the rules and  
42 regulations of the Local Finance Board have been met, ~~['he] the~~  
43 ~~director~~ shall, within 45 days ~~['of his] after~~ receipt of the budget,  
44 approve it; otherwise ~~['he] the director~~ shall within that time refuse  
45 to approve it. The director, in refusing to approve the budget, shall  
46 not substitute ~~['his] the director's~~ discretion with respect to the  
47 amount of an appropriation when that amount is not made

1 mandatory by law or regulation. If a budget fails to incorporate  
2 infrastructure improvements identified in an asset management plan  
3 required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) or any  
4 regulations adopted by the Commissioner of Environmental  
5 Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.)  
6 pertaining to asset management, as applicable, the director may  
7 order the inclusion of the improvements, along with any revenues or  
8 appropriations necessary to fund and effectuate the improvements.  
9 The director may order other measures as the director deems  
10 necessary to ensure the integrity of the authority's water  
11 infrastructure; however, the director may take into account the  
12 authority's fiscal circumstances in determining appropriate  
13 measures.

14 Any decision of the director in the course of budget review under  
15 this section may be appealed to the Local Finance Board in the  
16 manner generally provided by law.

17 (cf: P.L.2015, c.95, s.19)

18

19 13. (New section) a. Whenever there is available an  
20 undesigned fund balance or unreserved retained earnings held by  
21 a municipal <sup>1</sup>**["water] utilities**<sup>1</sup> authority <sup>1</sup>with a water supply  
22 operation<sup>1</sup> that is being dissolved by a municipality, no more than  
23 five percent of the annual costs of operation of the authority, as set  
24 forth in the final adopted budget of the authority, may be  
25 appropriated therefrom for uses not directly related to drinking  
26 water management, unless the Local Finance Board determines that  
27 the municipality has demonstrated a need for greater than five  
28 percent based on a showing of significant fiscal distress.

29 b. The Local Finance Board may condition its approval for a  
30 municipality's proposal to dissolve a municipal <sup>1</sup>**["water] utilities**<sup>1</sup>  
31 authority on the municipality's proposal to comply with subsection  
32 a. of this section.

33 c. This section shall not apply to a regional authority.

34

35 14. N.J.S.40A:31-3 is amended to read as follows:

36 40A:31-3. As used in **["this act]** the "County and Municipal  
37 Water Supply Act," N.J.S.40A:31-1 et seq. :

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

40 b. "Cost" as applied to water supply facilities or extensions or  
41 additions thereto, means the cost of acquisition or the construction,  
42 including improvement, reconstruction, extension or enlargement,  
43 the cost of all labor materials, machinery and equipment, the cost of  
44 all lands, property, rights and easements acquired, the cost of  
45 demolition or removal of any buildings or structures thereon,  
46 financing charges, interest on bonds issued to finance water supply  
47 facilities prior to and during construction, the cost of plans and  
48 specifications, surveys or estimates of costs and revenues, the cost

1 of engineering, legal services, and any other expenses necessary or  
2 incident to determining the feasibility of construction,  
3 administrative expenses and such other expenses as may be  
4 necessary or incident to the construction or acquisition of water  
5 supply facilities, and the financing thereof.

6 c. "Local unit" means a county or municipality.

7 d. "Water supply facilities" means the plants, structures or  
8 other real and personal property acquired, constructed or operated,  
9 or to be financed, acquired, constructed or operated, or any parts  
10 thereof, including reservoirs, basins, dams, canals, aqueducts,  
11 standpipes, conduits, pipelines, mains, pumping stations, water  
12 distribution systems, compensating reservoirs, waterworks, or  
13 sources of water supply, well, purification or filtration plants, or  
14 other plants or works, connections, rights of flowage or diversion,  
15 and other plants, structures, boats, conveyances and other real and  
16 personal property, or rights therein, and appurtenances necessary or  
17 useful for the accumulation, supply or distribution of water.  
18 Source: C.40:14C-3 (P.L.1979, c.451, s.3).

19 The term "water supply facilities" includes the replacement of  
20 service connections to a publicly-owned water system, from the  
21 distribution main onto privately-owned real property and into a  
22 privately-owned structure, when used in reference to a project  
23 undertaken for the purpose of replacing **【lead-contaminated】**  
24 **residential lead service 【connections】 lines**, regardless of possible  
25 private service connection ownership **【**, so long as the project is (1)  
26 an environmental infrastructure project, as defined under section 3  
27 of P.L.1985, c.334 (C.58:11B-3), and (2) funded either by loans  
28 from the New Jersey Infrastructure Bank, created pursuant to  
29 section 4 of P.L.1985, c.334 (C.58:11B-4), or by loans issued  
30 through the Department of Environmental Protection **】**.

31 (cf: P.L.2018, c.114, s.5)

32

33 15. Section 5 of P.L.1995, c.101 (C.58:26-23) is amended to  
34 read as follows:

35 5. a. A public entity shall publish notice of its intent to enter  
36 into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in at  
37 least one newspaper of general circulation in the jurisdiction or  
38 service area that will receive water supply services under the terms  
39 of a contract and one newspaper of broad regional circulation, at  
40 least 60 days prior to conducting the public hearing required under  
41 section 6 of P.L.1995, c.101 (C.58:26-24). In addition, a public  
42 entity that intends to enter into a contract with a private firm for the  
43 provision of water supply services shall notify in writing the board,  
44 department and division of its intent.

45 b. The public notice required under subsection a. of this section  
46 shall describe the type of services desired and provide the name,  
47 address and phone number of the person who can provide additional  
48 information and a proposal document to an interested party. The



1 notice shall specify a deadline, that shall be not less than 30 days  
2 from the date of the publication of the notice for the submission of  
3 proposals by private firms to the public entity. The public entity  
4 may at any time revise the proposal document and each private firm  
5 that received a proposal document shall be provided with the  
6 revised proposal document.

7 c. The public entity shall conduct a review of the proposals  
8 submitted by private firms to determine which proposals meet the  
9 minimum qualifications and standards. The review shall be  
10 conducted in a manner that avoids disclosure of the contents of a  
11 proposal to any private firm submitting a competing proposal. The  
12 public entity may conduct discussions with a private firm  
13 submitting a qualified proposal for the purpose of clarifying the  
14 information submitted in the proposal. The public entity may at any  
15 time revise its proposal document after the review of the submitted  
16 proposals if it notifies simultaneously and in writing each private  
17 firm that submitted a proposal of the revision and provides a  
18 uniform time within which a firm may submit a revised proposal for  
19 review.

20 d. A public entity shall select one qualified proposal from  
21 among those submitted. The public entity shall negotiate a contract  
22 with the private firm that submitted the selected proposal. If the  
23 public entity is unable to negotiate a satisfactory contract with the  
24 selected private firm, it may select another qualified proposal from  
25 among those submitted and proceed to negotiate a contract with the  
26 private firm that submitted the proposal. The public entity shall set  
27 forth in writing the reasons for the selection of the qualified  
28 proposal submitted by the private firm with which the public entity  
29 has negotiated a proposed contract and shall make this document  
30 available to the public along with the proposed contract upon  
31 request and during the public hearing conducted pursuant to section  
32 6 of P.L.1995, c.101 (C.58:26-24).

33 e. A contract entered into pursuant to P.L.1995, c.101  
34 (C.58:26-19 et al.) shall include provisions addressing the  
35 following:

36 (1) The charges, rates, fees or formulas to be used to determine  
37 the charges, rates, or fees to be charged by the public entity for the  
38 water supply services to be provided **[.]** ;

39 (2) The allocation of the risks of financing and constructing  
40 planned capital additions or upgrades to existing water supply  
41 facilities **[.]** ;

42 (3) The allocation of the risks of operating and maintaining the  
43 water supply facility **[.]** ;

44 (4) The allocation of the risks associated with circumstances or  
45 occurrences beyond the control of the parties to the contract **[.]** ;

46 (5) The defaulting and termination of the contract **[.]** ;

1 (6) The employment of current employees of the public entity  
2 whose positions or employment will be affected by the terms of the  
3 contract **[.]** ;

4 (7) The private firm's authority and the extent, or the procedures  
5 for the use, of that authority to initiate, negotiate and finalize the  
6 terms for a bulk sale of surplus water. The contract shall either  
7 grant the private firm such authority or specifically state that the  
8 firm is denied that authority. Nothing in P.L.1995, c.101 (C.58:26-  
9 19. et al.) shall be construed to authorize a public entity that enters  
10 into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) to  
11 provide for the bulk sale, lease or transfer of water if the water  
12 being transferred, leased or sold has been supplied to the public  
13 entity either by the New Jersey Water Supply Authority or by the  
14 North Jersey District Water Supply Commission, unless the  
15 authority pursuant to P.L.1981, c.293 (C.58:1B-1 et seq.) or the  
16 district pursuant to R.S.58:5-1 et seq., as appropriate, has agreed to  
17 the bulk sale, lease or transfer **[.]** ;

18 (8) The requirements for the provision of a performance bond by  
19 the private firm, if so required by the public entity ; and

20 (9) The allocation of responsibility for compliance with the  
21 provisions of the “Water Quality Accountability Act,” P.L.2017,  
22 c.133 (C.58:31-1 et seq.), if applicable .

23 A contract may contain any other terms and conditions that have  
24 been negotiated by the public entity and the private firm.

25 f. If a dispute over contract compliance, performance or  
26 termination cannot be resolved by the public entity and the private  
27 firm pursuant to the procedures set forth in the contract, either party  
28 to the contract may file with the Superior Court which has  
29 appropriate jurisdiction a request for an order either to terminate the  
30 contract based on the reasons stated in the request or for an order  
31 for other appropriate relief to the dispute. The court may take such  
32 action as it may deem necessary to facilitate the expeditious  
33 resolution of the dispute and an expeditious response to the request,  
34 including ordering the parties to undertake a dispute resolution or  
35 mediation process. The court shall use, as it deems necessary, the  
36 services of a financial expert in the area of water supply service  
37 contracts in its analysis of the contract and the issues before it.  
38 Within 90 days after the filing of a request, the court shall either  
39 grant the request or deny the request. If the request is granted, the  
40 court shall order such appropriate relief measures or remedies as it  
41 deems appropriate and necessary.

42 g. A public entity that has negotiated a contract with a private  
43 firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall obtain the  
44 written opinion of bond counsel as to effect of the contract on the  
45 tax exempt status of existing and future financing instruments  
46 executed by the public entity given the terms of the contract and the  
47 federal laws or regulations concerning this matter.

1 h. If a public entity entering a contract consists of multiple  
2 municipalities, a concession fee or other monetary benefit paid by a  
3 private firm as a result of the contract shall be paid directly to the  
4 municipalities constituting that public entity. Any concession fee or  
5 monetary benefit paid by a private firm to a public entity shall be  
6 used for the purpose of reducing or off-setting property taxes.  
7 (cf: P.L.1995, c.101, s.5)

8  
9 16. Section 7 of P.L.1995, c.101 (C.58:26-25) is amended to  
10 read as follows:

11 7. a. Within 60 days of receipt of the application, the board  
12 and division shall approve, or conditionally approve, an application  
13 submitted by a public entity pursuant to subsection f. of section 6 of  
14 P.L.1995, c.101 (C.58:26-24). Within 60 days of receipt of the  
15 hearing report, the department shall provide any comments on the  
16 hearing report it deems appropriate to the board, division and public  
17 entity. If the board or division fail to approve or conditionally  
18 approve the application within 60 days after receipt, the application  
19 shall be deemed approved, unless the public entity has agreed to an  
20 extension of the period.

21 b. If either the board or division conditionally approves the  
22 application, the board or division shall state in writing the revision  
23 to the proposed contract that is necessary in order for it to be  
24 approved. If the board or division determines that the required  
25 revision is substantial, the public entity shall hold a public hearing  
26 on the revision and adhere to the provisions of section 6 of  
27 P.L.1995, c.101 (C.58:26-24) in so doing. A substantial revision  
28 shall be a change that results in an increase in the charges, rates or  
29 fees of the private firm or that materially changes other terms and  
30 conditions of the contract. The proposed revision to the contract  
31 shall be submitted to the board, division and department 15 days  
32 prior to the date of the public hearing. If the board or division  
33 determines that the required revision in the conditional approval is  
34 not substantial, the public entity shall submit the proposed revision  
35 to the contract to the board and the division for approval and to the  
36 department for review. The revision shall be approved if found to  
37 be consistent with the conditions set forth in the conditional  
38 approval, or disapproved with a written explanation as to why the  
39 revision is not consistent, within 15 days after the next public  
40 meeting of the board or division.

41 c. In its review of a contract, the board shall apply the  
42 following criteria in determining whether to approve the contract:

43 (1) The private firm entering into the contract has the financial  
44 capacity and technical and administrative experience to ensure  
45 continuity of service over the term of the contract and that the  
46 standards and requirements contained in the application documents  
47 concerning the financial, technical and administrative capacity of

1 the private firm are necessary and sufficient to protect the public  
2 interest.

3 (2) The terms of the contract are not unreasonable. In  
4 determining whether the terms of the contract are not unreasonable,  
5 the board shall review the fees and charges to be charged or  
6 assessed under the contract to determine that they are reasonable to  
7 the public entity, taking into consideration all of the obligations  
8 undertaken by the private firm and all the benefits obtained by the  
9 public entity. In making this determination, the board shall not use  
10 the traditional rate based rate of return methodology.

11 (3) The franchise customers of a public utility participating in a  
12 contract are protected from the risks of the proposed contract and  
13 that they are not subsidizing the contract. If a private firm is not a  
14 public utility, the board shall ensure that under the terms of the  
15 proposed contract the users of water outside of the jurisdiction or  
16 service area that will receive water supply services under the  
17 contract are also protected from the risks of the contract and that  
18 water users outside the jurisdiction or service area are not  
19 subsidizing the contract through increased charges, rates or fees for  
20 the supply of water.

21 (4) The contract contains the provisions required by paragraphs  
22 (1), (2) and (6) of subsection e. of section 5 of P.L.1995, c.101  
23 (C.58:26-23).

24 Upon approval of a contract as proposed or as revised in  
25 response to a conditional approval, the jurisdiction of the board  
26 over the contract shall terminate until or unless the contract is  
27 amended to change the formula or other basis of determining  
28 charges contained therein.

29 d. In its review of a contract, the division shall apply the  
30 following criteria in determining whether to approve the contract:

31 (1) The terms of the proposed contract do not materially impair  
32 the ability of the public entity to punctually pay principal and  
33 interest due on its outstanding indebtedness and to supply other  
34 essential public improvements and services.

35 (2) A concession fee or other monetary benefit paid by a private  
36 firm as a result of the contract is paid directly to the municipalities  
37 constituting that public entity, if a public entity consisting of  
38 multiple municipalities has entered into a contract. Any concession  
39 fee or monetary benefit paid by a private firm to a public entity is  
40 used for the purpose of reducing or off-setting property taxes.

41 (3) The contract contains the provisions required by paragraphs  
42 (3), (4), (5), (7) **and** (8) and (9) of subsection e. of section 5 of  
43 P.L.1995, c.101 (C.58:26-23).

44 The division shall also review and specifically approve any  
45 contract provision pursuant to which a public entity will or may  
46 execute a financing instrument for the purposes set forth in the  
47 contract.

1 e. The board or division may provide the public entity with any  
2 non-binding comments or advice during or after the review of the  
3 application as the board or division deem appropriate.

4 f. The board or division shall assess and the applicant shall pay  
5 a fee equal to the cost incurred by the board or division for an  
6 analysis of an application by an independent person who has  
7 expertise in the area of water supply services if during the review of  
8 an application the board or division determine that such an analysis  
9 is required and a person with the required expertise is not readily  
10 available from within any executive department of the State  
11 government.

12 g. If the public entity and private firm would like to amend a  
13 contract after approval of an application by the board and division,  
14 the public entity shall submit proposed amendments to the board  
15 and division for approval and to the department for review. At the  
16 next public meeting of the board and of the division after receipt of  
17 proposed amendments, the board and the division shall determine  
18 whether the proposed amendments are substantial. If the  
19 amendments are substantial in nature as determined by either the  
20 board or the division, the public entity shall conduct a hearing  
21 pursuant to section 6 of P.L.1995, c.101 (C.58:26-24). Within 60  
22 days of the receipt of proposed amendments that are not determined  
23 to be substantial, or within 60 days of the receipt of an application  
24 for approval of proposed amendments that are determined to be  
25 substantial, the board and division shall approve or conditionally  
26 approve the amendments in accordance with the applicable  
27 procedures established for approval of an original contract pursuant  
28 to this section **[7 of P.L.1995, c.101 (C.58:26-19 et al.)]** .

29 (cf: P.L.1995, c.101, s.7)

30  
31 <sup>1</sup>**[17. Section 2 of P.L.2017, c.133 (C.58:31-2) is amended to**  
32 **read as follows:**

33 2. As used in **[this act]** P.L.2017, c.133 (C.58:31-1 et seq.) :

34 "Board" means the Board of Public Utilities.

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

37 "New Jersey Cybersecurity and Communications Integration  
38 Cell" means the New Jersey Cybersecurity and Communications  
39 Integration Cell established pursuant to Executive Order No. 178  
40 (2015) in the New Jersey Office of Homeland Security and  
41 Preparedness, or any successor entity.

42 "Public community water system" means the same as the term is  
43 defined in section 3 of P.L.1977, c.224 (C.58:12A-3).

44 "Water purveyor" means any person that owns a public  
45 community water system with more than 500 service connections.

46 (cf: P.L.2017, c.133, s.2)<sup>1</sup>

1       <sup>1</sup>18. Section 3 of P.L.2017, c.133 (C.58:31-3) is amended to  
2 read as follows:

3       3. a. Each water purveyor shall inspect each valve in its  
4 **public** water system in accordance with the provisions of  
5 subsection b. of this section in order to determine (1) accessibility  
6 of the valve for operational purposes, and (2) the valve's operating  
7 condition. A water purveyor shall repair or replace any valve found  
8 to be broken or otherwise not operational.

9       b. Each water purveyor shall inspect each valve that is 12 or  
10 more inches in diameter **at least** in accordance with industry  
11 standards and no less frequently than once every **two** four years,  
12 and shall inspect all other valves **at least** in accordance with  
13 industry standards and no less frequently than once every **four**  
14 eight years, except that the requirements of this subsection shall not  
15 apply to any service connection valve or customer shut-off valve.  
16 At a minimum, each valve inspection conducted pursuant to this  
17 subsection shall include:

18       (1) clearing of the area around the valve to ensure full access to  
19 the valve for operating purposes;

20       (2) cleaning out of the valve box;

21       (3) dynamic testing of the valve, by opening and then closing  
22 the valve for either of the following number of turns:

23       (a) the number of turns recommended by the valve manufacturer  
24 to constitute a credible test; or

25       (b) the number of turns which constitutes 15 percent of the total  
26 number of turns necessary to completely open or completely close  
27 the valve; and

28       (4) complying with any other criteria as may be required by the  
29 department pursuant to rules and regulations adopted pursuant to  
30 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
31 seq.).

32       c. (1) Each water purveyor shall, once a year, test every fire  
33 hydrant in its system in order to determine the hydrant's working  
34 condition.

35       (2) Each water purveyor shall formulate and implement a plan  
36 for flushing every fire hydrant in the **public** water system, and  
37 every dead end of a main in the **public** water system. This plan  
38 for flushing may be combined with the periodic testing of fire  
39 hydrants required pursuant to paragraph (1) of this subsection.

40       d. Each water purveyor shall keep a record of all inspections,  
41 tests, and flushings conducted pursuant to this section for a period  
42 of at least **six** 10 years.

43       e. Each water purveyor that owns, solely or jointly, a fire  
44 hydrant shall mark each hydrant with the initials of its name,  
45 abbreviation of its name, corporate symbol, or other distinguishing  
46 mark or code by which ownership may be readily and definitely  
47 ascertained. Each fire hydrant shall be marked with a number or

1 symbol, or both, by which the location of the hydrant may be  
2 determined on the water purveyor's office records. The markings  
3 may be made with paint, brand, **【or with】** a soft metal plate, or by  
4 another method approved by the department, and shall be of such  
5 size and so spaced and maintained as to be easily read.

6 f. Each water purveyor shall identify, to the extent possible,  
7 the geographic location of each valve and fire hydrant in its  
8 **【public】** water system using a global positioning system based on  
9 satellite or other location technology.

10 (cf: P.L.2017, c.133, s.3)**】**<sup>1</sup>

11  
12 <sup>1</sup>**【19. Section 4 of P.L.2017, c.133 (C.58:31-4) is amended to**  
13 **read as follows:**

14 4. a. Within 120 days after the effective date of **【this act】**  
15 P.L.2017, c.133 (C.58:31-1 et seq.) , each water purveyor shall  
16 develop a cybersecurity program, in accordance with requirements  
17 established by the board and the New Jersey Cybersecurity and  
18 Communications Integration Cell , that defines and implements  
19 organization accountabilities and responsibilities for cyber risk  
20 management activities, and establishes policies, plans, processes,  
21 and procedures for identifying and mitigating cyber risk to its  
22 **【public】** water system. As part of the program, a water purveyor  
23 shall conduct risk assessments and implement appropriate controls  
24 to mitigate identified risks to the **【public】** water system, maintain  
25 situational awareness of cyber threats and vulnerabilities to the  
26 **【public】** water system, and create and exercise incident response  
27 and recovery plans.

28 A copy of the program developed pursuant to this subsection  
29 shall be provided to the New Jersey Cybersecurity and  
30 Communications Integration Cell **【,** established pursuant to  
31 Executive Order No. 178 (2015) in the New Jersey Office of  
32 Homeland Security and Preparedness**】** .

33 b. Within 60 days after developing the program required  
34 pursuant to subsection a. of this section, each water purveyor shall  
35 join the New Jersey Cybersecurity and Communications Integration  
36 Cell **【,** established pursuant to Executive Order No. 178 (2015),**】**  
37 and create a cybersecurity incident reporting process.

38 c. **【A water purveyor that does not have an internet-connected**  
39 **control system shall be exempt from the requirements of this**  
40 **section.】** (Deleted by amendment, P.L. , c. (C. ) (pending  
41 before the Legislature as this bill))

42 (cf: P.L.2017, c.133, s.4)**】**<sup>1</sup>

43  
44 <sup>1</sup>**【20. Section 6 of P.L.2017, c.133 (C.58:31-6) is amended to**  
45 **read as follows:**

1       6. In addition to any other certifications required pursuant to  
2 law, rule, or regulation, the responsible corporate officer of **【the】** a  
3 public community water system with more than 500 service  
4 connections , if privately held, executive director, if an authority, or  
5 mayor or chief executive officer of the municipality, if municipally  
6 owned, as applicable, shall be required to certify in writing each  
7 year to the Department of Environmental Protection and, if  
8 applicable, the Board of Public Utilities that the water purveyor  
9 complies with: all federal and State drinking water regulations,  
10 including water quality sampling, testing, and reporting  
11 requirements; the hydrant and valve requirements set forth in  
12 section 3 of **【this act】** P.L.2017, c.133 (C.58:31-3) ; **【the notice of**  
13 **violation mitigation plan requirements set forth in section 5 of this**  
14 **act, if applicable;】** and the infrastructure improvement investment  
15 required pursuant to section 7 of **【this act】** P.L.2017, c.133  
16 (C.58:31-7) .  
17 (cf: P.L.2017, c.133, s.6)**】**<sup>1</sup>

18  
19       <sup>1</sup>**【**21. Section 7 of P.L.2017, c.133 (C.58:31-7) is amended to  
20 read as follows:

21       7. a. Beginning no later than 18 months after the effective date  
22 of **【this act】** P.L.2017, c.133 (C.58:31-1 et seq.) , **【every water**  
23 **purveyor】** an owner of a public community water system shall  
24 implement an asset management plan designed to inspect, maintain,  
25 repair, and renew its infrastructure consistent with standards  
26 established by the American Water Works Association. The asset  
27 management plan shall include:

28       (1) a water main renewal program designed to achieve a **【150-**  
29 **year】** replacement cycle, **【or other appropriate replacement cycle as**  
30 **determined by a detailed engineering analysis of the asset condition**  
31 **and estimated service lives of the water mains serving the public**  
32 **water system】** the duration of which shall be determined by  
33 dividing the number of miles of water mains in the public  
34 community water system by 100 or another calculation determined  
35 to be appropriate by the department ;

36       (2) a water supply and treatment program designed to inspect,  
37 maintain, repair, renew, and upgrade wells, intakes, pumps, and  
38 treatment facilities in accordance with all federal and State  
39 regulations **【,】** and standards established by the American Water  
40 Works Association **【, and any mitigation plan required pursuant to**  
41 **section 5 of this act】** ; **【and】**

42       (3) a capital improvement plan identifying the annual cost of  
43 implementing each element of the asset management plan, along  
44 with the sources of funding for each element;

45       (4) a certification of the completeness of the asset management  
46 plan signed by the licensed operator or professional engineer of the



1 public community water system and: the responsible corporate  
2 officer of the public community water system, if privately held; the  
3 executive director, if an authority; or the mayor or chief executive  
4 officer of the municipality, if municipally owned, as applicable; and

5 (5) any other programs, plans, or provisions as may be required  
6 by the department pursuant to rules and regulations adopted  
7 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
8 (C.52:14B-1 et seq.).

9 Each **【water purveyor】** owner of a public community water  
10 system shall dedicate adequate funds on an annual basis 【to address  
11 and remediate】 towards implementing its asset management plan,  
12 including addressing and remediating the highest priority projects  
13 as determined by its asset management plan.

14 **【All asset management plans and system condition reports shall**  
15 **be certified to by the licensed operator or professional engineer of**  
16 **the public water system and the responsible corporate officer of the**  
17 **public water system, if privately held, executive director, if an**  
18 **authority, or mayor or chief executive officer of the municipality, if**  
19 **municipally owned, as applicable. The replacement cycle shall be**  
20 **determined by dividing the miles of water main located in the**  
21 **public water system by 150 or other appropriate demonstration set**  
22 **forth in the certified asset management plan prepared pursuant to**  
23 **this section.】**

24 b. **【At least once every three years, each】** Each water purveyor  
25 shall provide to the department and the board, if applicable, 【a】 an  
26 annual report based on its asset management plan prepared pursuant  
27 to subsection a. of this section identifying the infrastructure  
28 improvements to be undertaken in the 【coming year】 subsequent  
29 three years and the cost of those improvements, as well as  
30 identifying the infrastructure improvements completed in the past  
31 year and the cost of those improvements. If the water purveyor is a  
32 municipality, a county, or an authority subject to the "Local  
33 Authorities Fiscal Control Law" (C.40A:5A-1 et seq.), the report  
34 shall also identify infrastructure improvements to be undertaken  
35 pursuant to the asset management plan in the remaining years of the  
36 water purveyor's capital improvement plan, along with the actual or  
37 estimated cost of such improvements. A municipal water  
38 department or municipal water authority shall also submit the report  
39 required pursuant to this subsection to the Division of Local  
40 Government Services in the Department of Community Affairs.

41 c. The department, the board, and the Department of  
42 Community Affairs shall create a centralized portal allowing for  
43 electronic submittal of the report required pursuant to subsection b.  
44 of this section. The lack of a centralized portal pursuant to this  
45 subsection shall not negate the requirement for a water purveyor to  
46 submit a report pursuant to subsection b. of this section.

1        d. In consultation with the Director of the Division of Local  
2 Government Services in the Department of Community Affairs and  
3 the board, the Commissioner of Environmental Protection shall set a  
4 deadline for submission of the completed annual report; however,  
5 the deadline for submission shall be no later than December 31 for  
6 counties and municipalities with a calendar year budget cycle, June  
7 30 for municipalities with a State fiscal year budget cycle, or, for  
8 authorities subject to the "Local Authorities Fiscal Control Law,"  
9 P.L.1983, c.313 (C.40A:5A-1 et seq.), 15 days prior to the deadline  
10 established by the Division of Local Government Services for an  
11 authority to submit its introduced annual budget. Water purveyors  
12 that are municipalities, counties, or authorities subject to P.L.1983,  
13 c.313 (C.40A:5A-1 et seq.) shall submit the completed annual  
14 report to the Director of the Division of Local Government Services  
15 concurrent with the introduced annual budget for the budget year  
16 next following the date on which the report is required to be  
17 completed.

18 (cf: P.L.2017, c.133, s.7)]<sup>1</sup>

19

20        <sup>1</sup>[22. (New section) Any person who violates the provisions of  
21 P.L.2017, c.133 (C.58:31-1 et seq.), or any rule or regulation  
22 adopted pursuant thereto, shall be subject to the penalties and other  
23 remedies set forth in section 10 of P.L.1977, c.224 (C.58:12A-10).  
24 No later than 18 months after the effective date of P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill), the  
26 department shall adopt, pursuant to the "Administrative Procedure  
27 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of civil  
28 administrative penalties to be applied pursuant to this section for  
29 specific violations of P.L.2017, c.133 (C.58:31-1 et seq.).]<sup>1</sup>

30

31        <sup>1</sup>[23. Section 5 of P.L.2017, c.133 (C.58:31-5) is repealed.]<sup>1</sup>

32

33        <sup>1</sup>[24.] 17.<sup>1</sup> This act shall take effect immediately.

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38        Removes restrictions on special assessments and bond issuances  
39 for replacement of residential lead service lines; revises budgetary  
40 requirements for operators of certain water systems.