SENATE, No. 3288

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 16, 2020

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

Reduces allowed diversion of funds from stormwater, water, and sewer purposes to municipal and county budgets; requires municipalities and counties to notify Division of Local Government Services of diversions.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the diversion of funds from stormwater, water, and sewer purposes, and amending P.L.1983, c.111 and P.L.2004, c.87.

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

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

5. a. To the extent there is available surplus revenue collected by a municipality pursuant to chapter 62 of Title 40 of the Revised Statutes for supplying a utility service which is regulated by the Board of Public Utilities pursuant to subsection d. of N.J.S.40A:31-23, or to the extent there is available surplus revenue collected by a county or municipality from a stormwater utility established pursuant to P.L.2019, c.42 (C.40A:26B-1 et al.), an amount not to exceed **[**five**]** three percent of the annual costs of operation of the utility may be transferred annually from the accounts of the municipal utility or county utility, as appropriate, and included in the local budget pursuant to N.J.S.40A:4-35.

b. A municipality or county that transfers surplus revenue pursuant to subsection a. of this section shall provide written notice of the transfer, including the amount transferred, to the Division of Local Government Services in the Department of Community Affairs.

(cf: P.L.2019, c.42, s.20)

2. Section 1 of P.L.2004, c.87 (C.40A:5A-12.1) is amended to read as follows:

1. **[**To**]** a. Except as provided in subsection b of this section, to the extent there is available an undesignated fund balance or unreserved retained earnings held by an authority that is subject to the provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), excluding a fire district, a regional authority or a housing authority, an amount in that undesignated fund balance or unreserved retained earnings, not to exceed **[**5 %**]** five percent of the annual costs of operation of the authority may be appropriated for use in the local budget of the municipality or county that created the authority unless otherwise restricted by bond covenants.

b. Undesignated funds or unreserved retained earnings held by a sewerage authority established pursuant to P.L.1946, c.138, (C40:14A-1 et seq.), an authority operating a stormwater utility pursuant to P.L.2019, c.42 (C.40A:26B-1 et al.), or an authority operating a water system or sewerage system pursuant to P.L.1957,

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

Matter underlined thus is new matter.

c.183 (C.40:14B-1 et seq.) may be appropriated for use by the municipality or county that created the authority in an amount not to exceed three percent of the annual costs of operation of the authority.

c. A municipality or county that appropriates undesignated funds or unreserved retained earnings pursuant to subsection b. of this section shall provide written notice of the appropriation, including the amount appropriated, to the Division of Local Government Services in the Department of Community Affairs.

(cf: P.L.2004, c.87, s.1)

3. This act shall take effect immediately.

STATEMENT

This bill would reduce the amount of funds that counties and municipalities may divert from stormwater, water, and sewer utilities and authorities to county and municipal budgets.

Under current law, municipalities may transfer available surplus revenue that was collected to fund a utility to other expenditures made by the municipality, in an amount up to five percent of the utility's annual operating costs. This bill would reduce the allowed transfer for stormwater, water, and sewer utilities to three percent of the utility's annual operating costs. Similarly, current law allows counties and municipalities to appropriate undesignated funds and unreserved retained earnings held by an authority that was created by the county or municipality, in an amount up to five percent of the authority's annual operating costs. This bill would reduce the allowed appropriation for water and sewer purposes to three percent of the authority's annual operating costs.

This bill would also require counties and municipalities to notify the Division of Local Government Services in the Department of Community Affairs whenever the county or municipality: (1) transfers funds from a stormwater, water, or sewer utility, or (2) appropriates funds from a water or sewer authority.