

# ASSEMBLY, No. 2505

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman JOHN ALLEN**

**District 32 (Hudson)**

**SYNOPSIS**

Prohibits sewerage authorities, municipal authorities, and local units of government from charging interest on unpaid sewer fees and charges attributable to State or local entities, including housing authorities.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT prohibiting the charging of interest on unpaid sewer fees  
2 and charges in certain circumstances and amending various parts  
3 of the statutory law.  
4

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

7  
8 1. Section 21 of P.L.1946, c.138 (C.40:14A-21) is amended to  
9 read as follows:

10 21. (a) In the event that a service charge of any sewerage  
11 authority with regard to any parcel of real property shall not be paid  
12 as and when due, interest shall accrue and be due to the sewerage  
13 authority on the unpaid balance at the rate of 1 1/2 percent per  
14 month until such service charge, and the interest thereon, shall be  
15 fully paid to the sewerage authority.

16 (b) In the event that a service charge of any sewerage authority  
17 with regard to any parcel of real property owned by any person  
18 other than the State or an agency or subdivision thereof shall not be  
19 paid as and when due, the unpaid balance thereof and all interest  
20 accruing thereon shall be a lien on such parcel. No interest shall be  
21 charged on unpaid sewerage service charges attributable to the State  
22 or a local unit, or any of their agencies and authorities, including,  
23 but not limited to, a housing authority.

24 Such lien shall be superior and paramount to the interest in such  
25 parcel of any owner, lessee, tenant, mortgagee or other person  
26 except the lien of municipal taxes and shall be on a parity with and  
27 deemed equal to the lien on such parcel of the municipality where  
28 such parcel is situate for taxes thereon due in the same year and not  
29 paid when due. Such lien shall not bind or affect a subsequent bona  
30 fide purchaser of such parcel for a valuable consideration without  
31 actual notice of such lien, unless the sewerage authority shall have  
32 filed in the office of the collector or other officer of said  
33 municipality charged with the duty of enforcing municipal liens on  
34 real property a statement showing the amount and due date of such  
35 unpaid balance and identifying such parcel, which identification  
36 may be sufficiently made by reference to the assessment map of  
37 said municipality. The information shown in such statement shall be  
38 included in any certificate with respect to said parcel thereafter  
39 made by the official of said municipality vested with the power to  
40 make official certificates of searches for municipal liens. Whenever  
41 such service charge and any subsequent service charge with regard  
42 to such parcel and all interest accrued thereon shall have been fully  
43 paid to the sewerage authority, such statement shall be promptly  
44 withdrawn or cancelled by the sewerage authority.

**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.**

1 (c) In the event that a service charge of any sewerage authority  
2 with regard to any parcel of real property shall not be paid as and  
3 when due, the sewerage authority may, in its discretion, enter upon  
4 such parcel and cause the connection thereof leading directly or  
5 indirectly to the sewerage system to be cut and shut off until such  
6 service charge and any subsequent service charge with regard to  
7 such parcel and all interest accrued thereon shall be fully paid to the  
8 sewerage authority.

9 (d) In the event that a service charge of any sewerage authority  
10 with regard to any parcel of real property shall not be paid as and  
11 when due, the sewerage authority may, in accordance with section  
12 twenty-six of this act, cause the supply of water to such parcel to be  
13 stopped or restricted until such service charge and any subsequent  
14 service charge with regard to such parcel and all interest accrued  
15 thereon shall be fully paid to the sewerage authority. If for any  
16 reason such supply of water shall not be promptly stopped or  
17 restricted as required by section twenty-six of this act, the sewerage  
18 authority may itself shut off or restrict such supply and, for that  
19 purpose, may enter on any lands, waters or premises of any county,  
20 municipality or other person. The supply of water to such parcel  
21 shall, notwithstanding the provisions of this subsection, be restored  
22 or increased if the State Department of Health, upon application of  
23 the local board of health or health officer of the municipality where  
24 such parcel is situate, shall after public hearing find and shall  
25 certify to the sewerage authority that the continuance of such  
26 stopping or restriction of the supply of water endangers the health  
27 of the public in such municipality.

28 (e) The collector or other officer of every municipality charged  
29 by law with the duty of enforcing municipal liens on real property  
30 shall enforce, with and as any other municipal lien on real property  
31 in such municipality, all service charges and the lien thereof shown  
32 in any statement filed with him by any sewerage authority pursuant  
33 to subsection (b) of this section, and shall pay over to the sewerage  
34 authority the sums or a pro rata share of the sums realized upon  
35 such enforcement or upon liquidation of any property acquired by  
36 the municipality by virtue of such enforcement.

37 (f) In the event that any service charge of a sewerage authority  
38 shall not be paid as and when due, the unpaid balance thereof and  
39 all interest accrued thereon, together with attorney's fees and costs,  
40 may be recovered by the sewerage authority in a civil action, and  
41 any lien on real property for such service charge and interest  
42 accrued thereon may be foreclosed or otherwise enforced by the  
43 sewerage authority by action or suit in equity as for the foreclosure  
44 of a mortgage on such real property.

45 (g) All rights and remedies granted by this act for the collection  
46 and enforcement of service charges shall be cumulative and  
47 concurrent.

1 (h) Notwithstanding the provisions of this section, if the  
2 Governor has declared a public health emergency pursuant to the  
3 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et  
4 seq.), or a state of emergency, pursuant to P.L.1942, c.251  
5 (C.App.A:9-33 et seq.), or both, in response to a flood, hurricane,  
6 superstorm, tornado, natural or other disaster, or public health  
7 emergency, then, for the duration of the public health emergency,  
8 state of emergency, or both and for a period up to 90 days after the  
9 public health emergency, state of emergency, or both, are no longer  
10 in effect, the sewerage authority may, in its discretion, engage in  
11 any combination of the following: (1) not charge interest on the  
12 delinquent payment; (2) not place a lien on such parcel of real  
13 property for the unpaid balance for any service charge and all  
14 interest accruing thereon; or (3) not discontinue service of any  
15 property for the failure to pay any amount owing. A sewerage  
16 authority shall exercise the discretionary authority it is provided  
17 under this subsection consistently to all properties, or to all  
18 properties of the same use type or other appropriate category.  
19 (cf: P.L.2020, c.39, s.1)

20

21 2. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to  
22 read as follows:

23 22. Every municipal authority is hereby authorized to charge and  
24 collect rents, rates, fees or other charges (in this act sometimes  
25 referred to as "sewerage service charges") for direct or indirect  
26 connection with, or the use or services of, the sewerage system.  
27 Such sewerage service charges may be charged to and collected  
28 from any person contracting for such connection or use or services  
29 or from the owner or occupant, or both of them, of any real property  
30 which directly or indirectly is or has been connected with the  
31 sewerage system or from or on which originates or has originated  
32 sewage or other wastes which directly or indirectly have entered or  
33 may enter the sewerage system, and the owner of any such real  
34 property shall be liable for and shall pay such sewerage service  
35 charges to the municipal authority at the time when and place where  
36 such sewerage service charges are due and payable. Every  
37 municipal authority may charge interest on unpaid rents, rates, fees,  
38 or other charges imposed for direct or indirect connection with, or  
39 the use or services of, the sewerage system pursuant to this  
40 subsection; however, a municipal authority shall not impose interest  
41 on unpaid rents, rates, fees, or other charges attributable to the State  
42 or a local unit, or any of their agencies and authorities, including,  
43 but not limited to, a housing authority.

44 Such rents, rates, fees and charges, being in the nature of use or  
45 service charges, shall as nearly as the municipal authority shall  
46 deem practicable and equitable be uniform throughout the district  
47 for the same type, class and amount of use or service of the  
48 sewerage system, except as permitted by section 1 of

1 P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed  
2 either on the consumption of water on or in connection with the real  
3 property, making due allowance for commercial use of water, or on  
4 the number and kind of water outlets on or in connection with the  
5 real property, or on the number and kind of plumbing or sewerage  
6 fixtures or facilities on or in connection with the real property, or on  
7 the number of persons residing or working on or otherwise  
8 connected or identified with the real property, or on the capacity of  
9 the improvements on or connected with the real property, or on any  
10 other factors determining the type, class and amount of use or  
11 service of the sewerage system, or on any combination of any such  
12 factors, and may give weight to the characteristics of the sewage  
13 and other wastes and any other special matter affecting the cost of  
14 treatment and disposal of the same, including chlorine demand,  
15 biochemical oxygen demand, concentration of solids and chemical  
16 composition, and, as to service outside the district, the cost of  
17 installation of necessary physical properties.

18 In addition to any such sewerage service charges, a separate  
19 charge in the nature of a connection fee or tapping fee, in respect of  
20 each connection of any property with the sewerage system, may be  
21 imposed upon the owner or occupant of the property so connected.  
22 Such connection charges shall be uniform within each class of  
23 users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-  
24 22.3) and except as provided by section 5 of  
25 P.L.2005, c.173 (C.44:14B-22.4), and the amount thereof shall not  
26 exceed the actual cost of the physical connection, if made by the  
27 authority, plus an amount computed in the following manner to  
28 represent a fair payment towards the cost of the system:

29 a. The amount representing all debt service, including but not  
30 limited to sinking funds, reserve funds, the principal and interest on  
31 bonds, and the amount of any loans and the interest thereon, paid by  
32 the municipal authority to defray the capital cost of developing the  
33 system as of the end of the immediately preceding fiscal year of the  
34 authority shall be added to all capital expenditures made by a  
35 municipal authority not funded by a bond ordinance or debt for the  
36 development of the system as of the end of the immediately  
37 preceding fiscal year of the authority.

38 b. Any gifts, contributions or subsidies to the authority  
39 received from, and not reimbursed or reimbursable to, any federal,  
40 State, county or municipal government or agency or any private  
41 person, and that portion of amounts paid to the authority by a public  
42 entity under a service agreement or service contract which is not  
43 repaid to the public entity by the authority, shall then be subtracted.

44 c. The remainder shall be divided by the total number of  
45 service units served by the authority at the end of the immediately  
46 preceding fiscal year of the authority, and the results shall then be  
47 apportioned to each new connector according to the number of  
48 service units attributed to that connector. In attributing service

1 units to each connector, the estimated average daily flow of sewage  
2 for the connector shall be divided by the average daily flow of  
3 sewage from the average single family residence in the authority's  
4 district, to produce the number of service units to be attributed.

5 The connection fee shall be recomputed at the end of each fiscal  
6 year of the authority, after a public hearing is held in the manner  
7 prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The  
8 revised connection fee may be imposed upon those who  
9 subsequently connect in that fiscal year to the system.

10 The combination of such connection fee or tapping fee and the  
11 aforesaid sewerage service charges shall meet the requirements of  
12 section 23.

13 (cf: P.L.2005, c.173, s.4)

14

15 3. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended  
16 to read as follows:

17 15. Every municipal authority is hereby authorized to charge and  
18 collect rents, rates, fees or other charges (in this act sometimes  
19 referred to as "solid waste service charges") for the use or services  
20 of the solid waste system. Such solid waste service charges may be  
21 charged to and collected from any municipality or any person  
22 contracting for such use or services or from the owner or occupant,  
23 or both of them, of any real property from or on which originates or  
24 has originated any solid waste to be treated by the solid waste  
25 system of the authority, and the owner of any such real property  
26 shall be liable for and shall pay such solid waste service charges to  
27 the municipal authority at the time when and place where such solid  
28 waste service charges are due and payable. Every municipal  
29 authority may charge interest on unpaid rents, rates, fees, or other  
30 charges imposed for direct or indirect connection with, or the use or  
31 services of, the solid waste system pursuant to this subsection;  
32 however, a municipal authority shall not impose interest on unpaid  
33 rents, rates, fees, or other charges attributable to the State or a local  
34 unit, or any of their agencies and authorities, including, but not  
35 limited to, a housing authority.

36 Such rents, rates, fees and charges, being in the nature of use or  
37 service charges, shall as nearly as the authority shall deem  
38 practicable and equitable be uniform throughout the county for the  
39 same type, class and amount of use or service of the solid waste  
40 system, except as permitted by section 1 of  
41 P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed on  
42 any factors determining the type, class and amount of use or service  
43 of the solid waste system, and may give weight to the  
44 characteristics of the solid waste and any other special matter  
45 affecting the cost of treatment and disposal of the same.

46 (cf: P.L.1992, c.215, s.3)

1 4. Section 1 of P.L.1991, c.53 (C.40A:26A-10) is amended to  
2 read as follows:

3 1. After the commencement of operation of sewerage facilities,  
4 the local unit or units may prescribe and, from time to time, alter  
5 rates or rentals to be charged to users of sewerage services. Every  
6 local unit or units may charge interest on unpaid rates or rentals  
7 imposed for direct or indirect connection with, or the use or services  
8 of, sewerage facilities pursuant to this section; however, a local unit  
9 shall not impose interest on unpaid rates or rentals attributable to  
10 the State or a local unit, or any of their agencies and authorities,  
11 including, but not limited to, a housing authority.

12 Rates or rentals being in the nature of use or service charges or  
13 annual rental charges, shall be uniform and equitable for the same  
14 types and classes of use and service of the facilities, except as  
15 permitted by section 5 of P.L.1994, c.78 (C.40A:26A-10.1). Rates  
16 or rentals and types and classes of use and service may be based on  
17 any factors which the governing body or bodies of that local unit or  
18 units shall deem proper and equitable within the region served.

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

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

28 b. Establish a surplus in an amount sufficient to provide for the  
29 reasonable anticipation of any contingency that may affect the  
30 operating of the sewerage facility, and, at the discretion of the local  
31 unit or units, allow for the transfer of moneys from the budget for  
32 the sewerage facilities to the local budget in accordance with  
33 section 5 of P.L.1983, c.111 (C.40A:4-35.1).  
34 (cf: P.L.1994, c.78, s.6)

35  
36 5. This act shall take effect immediately.  
37  
38

39 STATEMENT  
40

41 This bill would clarify that sewerage authorities, municipal  
42 authorities, and local units of government that create sewer utilities  
43 are permitted to charge interest on unpaid rates or rentals imposed  
44 for direct or indirect connection with, or the use or services of,  
45 sewerage authorities, municipal authorities, or sewerage facilities,  
46 but those entities cannot impose interest on unpaid rates or rentals  
47 attributable to the State or a local unit, or any of their agencies and  
48 authorities, including, but not limited to, a housing authority.