

# SENATE, No. 2037

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JUNE 24, 1999

**Sponsored by:**

**Senator WILLIAM L. GORMLEY**

**District 2 (Atlantic)**

### **SYNOPSIS**

Authorizes New Jersey Environmental Infrastructure Trust to finance or refinance solid waste facility debt.

### **CURRENT VERSION OF TEXT**

As introduced.



1 **AN ACT** concerning solid waste facility debt, and amending and  
2 supplementing P.L.1985, c.334 (C.58:11B-1 et seq.).

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 2 of P.L.1985, c.334 (C.58:11B-2) is amended to read  
8 as follows:

9 2. a. The Legislature finds that the steady deterioration of older  
10 sewage and sewer systems and wastewater treatment plants endangers  
11 the availability and quality of uncontaminated water resources of the  
12 State, thereby posing a grave danger to the health, safety and welfare  
13 of the residents of the concerned communities and the State; that the  
14 construction, rehabilitation, operation, and maintenance of modern and  
15 efficient sewer systems and wastewater treatment plants are essential  
16 to protecting and improving the State's water quality; that in addition  
17 to protecting and improving water quality, adequate wastewater  
18 treatment systems are essential to economic growth and development;  
19 that many of the wastewater treatment systems in New Jersey must be  
20 replaced or upgraded if an inexorable decline in water quality is to be  
21 avoided during the coming decades; that the United States Congress  
22 in recognition of the crucial role wastewater treatment systems and  
23 plants play in maintaining and improving water quality, and with an  
24 understanding that the cost of financing and constructing these systems  
25 must be borne by local governments and authorities with limited  
26 sources of revenues, established in the "Federal Water Pollution  
27 Control Act Amendments of 1972," Pub.L.92-500 (33 U.S.C. s.1251  
28 et al.) a program to provide local governments with grants for  
29 constructing these systems; that during the last several years the  
30 amount of federal grant money available to states and local  
31 governments for assistance in constructing and improving wastewater  
32 treatment systems has sharply diminished; that the current level of  
33 federal grant funding is inadequate to meet the cost of upgrading the  
34 State's wastewater treatment capacity to comply with State water  
35 quality standards; that the collective needs of the State and local  
36 governments for capital financing of wastewater treatment systems far  
37 exceed the sums of money presently available through revenue  
38 initiatives and State and federal aid programs; and that it is fitting and  
39 proper for the State to encourage local governments to undertake  
40 wastewater treatment projects through the establishment of a State  
41 mechanism to provide loans at the lowest reasonable interest rates and  
42 to guarantee or insure local capital improvement bonds.

43 b. The Legislature finds that stormwater runoff and combined

**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 sewer overflows are among the major sources of ocean pollution,  
2 contributing to beach closings; that combined sewer systems discharge  
3 untreated wastewater and stormwater into rivers, streams and coastal  
4 waters during wet weather, resulting in water pollution; that some  
5 combined sewer systems have deteriorated to the point that overflows  
6 occur regularly, even during dry weather; that many sewer systems are  
7 on inadequate repair and replacement programs, which may cause  
8 disturbances at sewage treatment plants; that many municipalities are  
9 under building moratoriums due to the inadequacy of their sewage and  
10 stormwater collection systems, which severely affect municipal  
11 budgets; and that large unmet capital expenses exist for combined  
12 sewer system separation and abatement projects.

13 The Legislature further finds that funding at the federal level for  
14 wastewater treatment, stormwater management and combined sewer  
15 system rehabilitation projects is insufficient; that State funds available  
16 for these projects are inadequate to meet current needs; that local  
17 revenues are insufficient to meet these expenses; and that additional  
18 funding at the State level is necessary to meet this financial obligation.

19 c. The Legislature finds that construction, rehabilitation, operation  
20 and maintenance of modern and efficient water supply facilities are  
21 essential to protecting and improving the State's water quality; that the  
22 citizens of this State, in recognition of the crucial role the construction  
23 of new and the upgrading of existing water supply facilities play in  
24 maintaining and augmenting the natural water resources of the State,  
25 and with an understanding that the cost of financing and constructing  
26 these systems is beyond the limited financial resource capabilities of  
27 local governments and authorities and must be subsidized by the State  
28 and repaid through a system of water supply user charges, approved  
29 the enactment of the "Water Supply Bond Act of 1981" (P.L.1981,  
30 c.261); that the water supply needs of the State are so great that the  
31 funds allocated for this purpose from the "Water Supply Fund"  
32 established by that 1981 bond act should be augmented and  
33 maximized, to the extent practicable, through the use of alternative  
34 methods of State financing to offset the costs of water supply projects  
35 and for the construction of new or the rehabilitation of antiquated or  
36 inadequate existing water supply facilities; that the United States  
37 Congress in recognition of the essential role that safe drinking water  
38 plays in protecting the public health, and with an understanding that  
39 financing, constructing and maintaining water systems that meet the  
40 requirements of the "Safe Drinking Water Act," 42 U.S.C.s.300f et  
41 seq. exceed the financial and technical capacity of the operators of  
42 some water systems, has established in the "Safe Drinking Water Act  
43 Amendments of 1996," P.L.104-182, a program to provide public  
44 water systems with financial assistance to meet national primary  
45 drinking water regulations or to otherwise further the health protection  
46 objectives of the federal law and that the State must, in order to make

1 use of the federal funds, provide State funds for the program; and  
2 therefore, State funding for the program is necessary to meet this  
3 financial obligation.

4 d. The Legislature finds and declares that the ability of each county  
5 or public authority to fulfill its lawful responsibilities with respect to  
6 district solid waste management plan implementation, including the  
7 ability to raise revenues sufficient to provide funds for payment of the  
8 costs of developing self-sufficient solid waste management systems,  
9 had been predicated on its legal authority to direct the flow of solid  
10 waste generated within the geographic boundaries of the county to  
11 designated solid waste facilities, thereby ensuring the economic  
12 viability of these facilities; and that waste flow control by public  
13 authorities and counties had been supported by statute, rules and  
14 regulations adopted by the Board of Public Utilities, and was upheld  
15 in 1988 as a valid exercise of State power by the federal courts in J.  
16 Filberto Sanitation, Inc. v. New Jersey Dept. of Env'tl. Protection.

17 The Legislature further finds and declares that in the case of C &  
18 A Carbone, Inc. v. Town of Clarkstown, NY, the U.S. Supreme Court  
19 held on May 16, 1994 that the challenged ordinance, which mandated  
20 that haulers use the facility designated by the town for solid waste  
21 processing and disposal, impermissibly discriminated against interstate  
22 commerce in violation of the U.S. Constitution; that the holding in  
23 Carbone was subsequently interpreted by the appellate court in  
24 Atlantic Coast Demolition & Recycling, Inc., et al. v. Board of Chosen  
25 Freeholders of Atlantic County et al. to require reversal of the prior  
26 ruling in J. Filberto Sanitation; on July 15, 1996, the U.S. District  
27 Court for the district of New Jersey in its Atlantic Coast decision  
28 invalidated New Jersey's waste flow rules to the extent that they  
29 discriminated against interstate commerce; that on May 1, 1997, the  
30 U.S. Court of Appeals in its second Atlantic Coast decision affirmed  
31 the district court's findings that New Jersey's waste flow laws, rules  
32 and regulations are unconstitutional insofar as they discriminate  
33 against out-of-state solid waste facilities and reversed the two year  
34 stay granted by Judge Irenas; that the State of New Jersey filed a  
35 petition for certiorari to the U.S. Supreme Court on September 4,  
36 1997; and that on November 10, 1997, the U.S. Supreme Court denied  
37 the State's petition for certiorari in Atlantic Coast, thereby requiring  
38 the State, the counties, public authorities and municipalities to  
39 implement a constitutionally acceptable system for solid waste  
40 management.

41 The Legislature further finds and declares that as a result of these  
42 court decisions the ratings for many revenue bonds issued by or on  
43 behalf of public authorities and counties for the development of solid  
44 waste facilities have been, or are in serious jeopardy of being seriously  
45 downgraded; that the downgrading of the ratings of these bonds has  
46 limited the normal access of public authorities and counties to the

1 credit markets for solid waste facility bond debt, and has potentially  
2 adversely affected the credit rating of several counties in the State.

3 The Legislature further finds and declares that the public authorities  
4 and counties must be able, under all circumstances, to secure revenues  
5 sufficient to recover the stranded solid waste facility debt incurred in  
6 constructing and operating State-mandated solid waste disposal  
7 facilities, including sanitary landfills, transfer stations and solid waste  
8 incinerators; and the State intends to provide financial assistance to  
9 public authorities and counties in the recovery of these stranded costs  
10 as well as with the fiscally sound retirement of solid waste facility  
11 bond debt.

12 The New Jersey Environmental Infrastructure Trust has performed  
13 in an exemplary manner in assisting local governments in financing  
14 their wastewater treatment and drinking water project needs on a cost  
15 effective basis; and that the duties, powers and responsibilities of the  
16 Trust should be expanded to include the financing and refinancing of  
17 solid waste facility bond debt.

18 The Legislature therefore determines that it is in the public interest  
19 and the public policy of this State to assist public authorities and  
20 counties in their efforts to reduce the tipping fees and other charges at  
21 county solid waste facilities in order to make these solid waste  
22 facilities more competitive with other solid waste disposal facilities;  
23 that it is the purpose and objective of this act to allow public  
24 authorities and counties to reduce their solid waste facility bond debt  
25 repayment obligations through the issuance of Trust refunding bonds  
26 along with deficiency payments, subsidies or other actions provided  
27 under this act; that through the reduction of solid waste disposal  
28 charges and debt service repayment obligations, the State intends to  
29 further its policy of reducing the risk of solid waste facility bond  
30 default at the local level; and that this in turn promotes the further  
31 public purpose of supporting the credit ratings of public authorities  
32 and counties, which ultimately will inure to the benefit of local  
33 ratepayers and taxpayers in this State.

34 e. The Legislature therefore determines that it is in the public  
35 interest to establish a State authority authorized to issue bonds, notes  
36 and other obligations and to establish any reserve funds necessary  
37 therefor, and to make loans to [and], refinance and guarantee debt  
38 incurred by local government units for environmental infrastructure  
39 projects, including solid waste facility bond debt.

40 (cf: P.L.1997, c.224, s.3)

41  
42 2. Section 3 of P.L.1985, c.334 (C.58:11B-3) is amended to read  
43 as follows:

44 3. As used in sections 1 through 27 of P.L.1985, c.334  
45 (C.58:11B-1 through 58:11B-27) [and], sections 23 through 27 of

1 P.L.1997, c.224 (C.58:11B-10.1 et al.), and sections 7, 10, 11 and 20  
2 of P.L. , c. (C.58:11B-28, 58:11B-29, 58:11B-30 and 58:11B-  
3 31)(pending in the Legislature as this bill):

4 "Bonds" means bonds issued by the trust pursuant to P.L.1985,  
5 c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997, c.224 (C.58:11B-10.1 et  
6 al.), or P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature  
7 as this bill):

8 "Combined sewer system" means a sewer system designed to carry  
9 sanitary wastewater at all times, which is also designed to collect and  
10 transport stormwater runoff from streets and other sources, thereby  
11 serving a combined purpose;

12 "Combined sewer overflow" means the discharge of untreated or  
13 partially treated stormwater runoff and wastewater from a combined  
14 sewer system into a body of water;

15 "Commissioner" means the Commissioner of the Department of  
16 Environmental Protection;

17 "Cost" means the cost of all labor, materials, machinery and  
18 equipment, lands, property, rights and easements, financing charges,  
19 interest on bonds, notes or other obligations, plans and specifications,  
20 surveys or estimates of costs and revenues, engineering and legal  
21 services, and all other expenses necessary or incident to all or part of  
22 an environmental infrastructure project;

23 "County solid waste facility" means a solid waste facility that is  
24 designated by a public authority or county in its adopted district solid  
25 waste management plan as approved by the department prior to  
26 November 10, 1997 as the in-county facility to which solid waste  
27 generated within the boundaries of the county is transported for final  
28 disposal, or transfer for transportation to an offsite solid waste facility  
29 or designated out-of-district disposal site for disposal, as appropriate,  
30 pursuant to interdistrict or intradistrict waste flow orders issued by the  
31 department, regardless of whether the solid waste facility was  
32 acquired, constructed, operated, abandoned or canceled;

33 "Department" means the Department of Environmental Protection;

34 "Local government unit" means (1) a county, municipality,  
35 municipal or county sewerage or utility authority, municipal sewerage  
36 district, joint meeting, improvement authority, or any other political  
37 subdivision authorized to construct, operate and maintain wastewater  
38 treatment systems; **【or】** (2) a State authority, district water supply  
39 commission, county, municipality, municipal or county utilities  
40 authority, municipal water district, joint meeting or any other political  
41 subdivision of the State authorized pursuant to law to operate or  
42 maintain a public water supply system or to construct, rehabilitate,  
43 operate or maintain water supply facilities or otherwise provide water  
44 for human consumption; or (3) a public authority or county authorized  
45 pursuant to law to construct, operate or maintain a county solid waste  
46 facility that has issued solid waste facility bonds or that is authorized

1 pursuant to the provisions of P.L. , c. (C.58:11B-28 et seq.)  
2 (pending in the Legislature as this bill) to issue local government unit  
3 bonds;

4 "Local government unit bonds" means the bonds, notes or other  
5 evidences of financial indebtedness issued by a public authority or  
6 county to the trust to secure one or more loans made by the trust or  
7 bonds issued by the trust in connection with the refinancing of solid  
8 waste facility bonds;

9 "Notes" means notes issued by the trust pursuant to P.L.1985,  
10 c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997, c.224 (C.58:11B-10.1 et  
11 al.) or P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature  
12 as this bill);

13 "Project" or "environmental infrastructure project" means the  
14 acquisition, construction, improvement, repair or reconstruction of all  
15 or part of any structure, facility or equipment, or real or personal  
16 property necessary for or ancillary to any (1) wastewater treatment  
17 system project, including any stormwater management or combined  
18 sewer overflow abatement projects; or (2) water supply project, as  
19 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or  
20 P.L.1997, c.224 (C.58:11B-10.1 et al.);

21 "Public authority" means a municipal or county utilities authority  
22 created pursuant to the "municipal and county utilities authorities  
23 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement  
24 authority created pursuant to the "county improvement authorities  
25 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control  
26 financing authority created pursuant to the "New Jersey Pollution  
27 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.), any of  
28 which has issued solid waste facility bonds or that is authorized  
29 pursuant to the provisions of P.L. , c. (C.58:11B-28 et  
30 seq.)(pending in the Legislature as this bill) to issue local government  
31 unit bonds;

32 "Public water utility" means any investor-owned water company or  
33 small water company that is subject to the jurisdiction or rate  
34 regulation of the Board of Public Utilities as a public utility;

35 "Small water company" means any company, purveyor or entity,  
36 other than a governmental agency, that provides water for human  
37 consumption and which regularly serves less than 1,000 customer  
38 connections;

39 "Solid waste" means garbage, refuse, and other discarded materials  
40 resulting from industrial, commercial and agricultural operations, and  
41 from domestic and community activities, and shall include all other  
42 waste materials including liquids, except for source separated  
43 recyclable materials or source separated food waste collected by  
44 livestock producers approved by the State Department of Agriculture  
45 to collect, prepare and feed such wastes to livestock on their own  
46 farms;

1     "Solid waste disposal" means the storage, treatment, utilization,  
2 processing, or final disposal of solid waste;

3     "Solid waste facility bonds" means the bonds, notes or other  
4 evidences of financial indebtedness issued by, or on behalf of, any  
5 public authority or county related to the planning, design, acquisition,  
6 construction, renovation, installation, operation or management of a  
7 county solid waste facility;

8     "Solid waste facility debt agreement" means any bond insurance,  
9 bond purchase, collateral, contract, including a solid waste disposal  
10 contract, contribution, deficiency, donation, escrow, escrow deposit,  
11 grant, guarantee, including a solid waste facility debt guarantee,  
12 indenture, lease, letter of credit, loan, including a loan by the trust,  
13 mortgage, reserve, sale, service, subordination, subsidy, surety, trust,  
14 rate swap, basis swap, forward rate, commodity swap, interest rate  
15 option, rate cap, rate floor, rate collar, forward payment conversion  
16 or futures agreement; or an agreement providing for payment based on  
17 levels of, or changes in, interest rates or other indices; or an agreement  
18 to exchange cash flows or a series of payments; or an agreement,  
19 including without limitation, interest rate floors or caps, options, puts  
20 or calls, to hedge payment, currency, rate, spread or other similar  
21 exposure or to manage investments to offset, hedge, or reduce risk and  
22 improve net costs; or any other agreement, including any combination  
23 of, or option to enter into, any of the foregoing, that directly or  
24 indirectly secures bonds issued by the trust, local government unit  
25 bonds, solid waste facility bonds, or other agreements, or that the trust  
26 determines to be necessary, desirable or convenient to the issuance of  
27 bonds issued by the trust or local government unit bonds to carry out  
28 the purposes or otherwise effectuate the provisions of any other  
29 agreements, or to otherwise effectuate any other corporate purpose of  
30 P.L. \_\_, c. \_\_ (C.58:11B-28 et seq.)(pending in the Legislature as this  
31 bill);

32     "Solid waste facility debt guarantee" means the full faith and credit  
33 guarantee by the county of the timely payment of the principal of,  
34 redemption premium, if any, and interest on any local government unit  
35 bond when due in accordance with the provisions of P.L. \_\_, c. \_\_  
36 (C.58:11B-28 et seq.)(pending in the Legislature as this bill); or, if  
37 applicable, the timely repayment of obligations of a local government  
38 unit of one or more loans made by the trust pursuant to the provisions  
39 of P.L. \_\_, c. \_\_ (C.58:11B-28 et seq.)(pending in the Legislature as  
40 this bill);

41     "Solid waste facilities" means, and includes, the plants, structures  
42 and other real and personal property acquired, constructed or operated  
43 or to be acquired, constructed or operated by, or on behalf of, any  
44 person, public authority or county pursuant to the provisions of the  
45 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)  
46 or any other act, including transfer stations, incinerators, resource



1 recovery facilities, sanitary landfill facilities or other plants for the  
2 disposal of solid waste, and all vehicles, equipment and other real and  
3 personal property and rights therein and appurtenances necessary or  
4 useful and convenient for the collection or disposal of solid waste in  
5 a sanitary manner;

6 "Stormwater management system" means any equipment, plants,  
7 structures, machinery, apparatus, management practices, or land, or  
8 any combination thereof, acquired, used, constructed, implemented or  
9 operated by a local government unit to prevent nonpoint source  
10 pollution, abate improper cross-connections and interconnections  
11 between stormwater and sewer systems, minimize stormwater runoff,  
12 reduce soil erosion, or induce groundwater recharge, or any  
13 combination thereof;

14 "Trust" means the New Jersey Environmental Infrastructure Trust  
15 created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

16 "Wastewater" means residential, commercial, industrial, or  
17 agricultural liquid waste, sewage, septage, stormwater runoff, or any  
18 combination thereof, or other liquid residue discharged or collected  
19 into a sewer system or stormwater management system, or any  
20 combination thereof;

21 "Wastewater treatment system" means any equipment, plants,  
22 structures, machinery, apparatus, or land, or any combination thereof,  
23 acquired, used, constructed or operated by, or on behalf of, a local  
24 government unit for the storage, collection, reduction, recycling,  
25 reclamation, disposal, separation, or other treatment of wastewater or  
26 sewage sludge, or for the collection or treatment, or both, of  
27 stormwater runoff and wastewater, or for the final disposal of residues  
28 resulting from the treatment of wastewater, including, but not limited  
29 to, pumping and ventilating stations, treatment plants and works,  
30 connections, outfall sewers, interceptors, trunk lines, stormwater  
31 management systems, and other personal property and appurtenances  
32 necessary for their use or operation; "wastewater treatment system"  
33 shall include a stormwater management system or a combined sewer  
34 system;

35 "Wastewater treatment system project" means any work relating to  
36 the acquisition, construction, improvement, repair or reconstruction  
37 of all or part of any structure, facility or equipment, or real or personal  
38 property necessary for or ancillary to any wastewater treatment system  
39 that meets the requirements set forth in sections 20, 21 and 22 of  
40 P.L.1985, c.334 (C.58:11B-20, 58:11B-21 and 58:11B-22); or any  
41 work relating to any of the stormwater management or combined  
42 sewer overflow abatement projects identified in the stormwater  
43 management and combined sewer overflow abatement project priority  
44 list adopted by the commissioner pursuant to section 28 of P.L.1989,  
45 c.181; or any work relating to any other project eligible for financing  
46 under the Federal Water Pollution Control Act Amendments of 1972

1 (33 U.S.C.s.1251 et seq.), or any amendatory or supplementary acts  
2 thereto;

3 "Water supply facilities" means and refers to the real property and  
4 the plants, structures, interconnections between existing water supply  
5 facilities, machinery and equipment and other property, real, personal  
6 and mixed, acquired, constructed or operated, or to be acquired,  
7 constructed or operated, in whole or in part, by or on behalf of a  
8 public water utility, or by or on behalf of the State or a local  
9 government unit, for the purpose of augmenting the natural water  
10 resources of the State and making available an increased supply of  
11 water for all uses, or of conserving existing water resources, and any  
12 and all appurtenances necessary, useful or convenient for the  
13 collecting, impounding, storing, improving, treating, filtering,  
14 conserving or transmitting of water, and for the preservation and  
15 protection of these resources and facilities, whether in public or  
16 private ownership, and providing for the conservation and  
17 development of future water supply resources, and facilitating  
18 incidental recreational uses thereof;

19 "Water supply project" means any work relating to the acquisition,  
20 construction, improvement, repair or reconstruction of all or part of  
21 any structure, facility or equipment, or real or personal property  
22 necessary for or ancillary to water supply facilities that meets the  
23 requirements set forth in sections 24, 25 and 26 of P.L.1997, c.224  
24 (C.58:11B-20.1, C.58:11B-21.1 and C.58:11B-22.1); or any work  
25 relating to the purposes set forth in section 4 of P.L.1981, c.261.  
26 (cf: P.L.1997, c.224, s.4)  
27

28 3. Section 4 of P.L.1985, c.334 (C.58:11B-4) is amended to read  
29 as follows:

30 4. a. There is established in, but not of, the Department of  
31 Environmental Protection a body corporate and politic, with corporate  
32 succession, to be known as the "New Jersey Environmental  
33 Infrastructure Trust." The trust is constituted as an instrumentality of  
34 the State exercising public and essential governmental functions, no  
35 part of whose revenues shall accrue to the benefit of any individual,  
36 and the exercise by the trust of the powers conferred by the provisions  
37 of P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224  
38 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending  
39 in the Legislature as this bill), shall be deemed and held to be an  
40 essential governmental function of the State.

41 b. The trust shall consist of a seven-member board of directors  
42 composed of the State Treasurer, the Commissioner of the Department  
43 of Community Affairs, and the Commissioner of the Department of  
44 Environmental Protection, who shall be members ex officio; one  
45 person appointed by the Governor upon the recommendation of the  
46 President of the Senate and one person appointed by the Governor

1 upon the recommendation of the Speaker of the General Assembly,  
2 who shall serve during the two-year legislative term in which they are  
3 appointed; and two residents of the State appointed by the Governor  
4 with the advice and consent of the Senate, who shall serve for terms  
5 of four years, except that the first two appointed shall serve terms of  
6 two and three years respectively. Each appointed director shall serve  
7 until his successor has been appointed and qualified. A director is  
8 eligible for reappointment. Any vacancy shall be filled in the same  
9 manner as the original appointment, but for the unexpired term only.

10 With respect to those public members first appointed by the  
11 Governor, the appointment of each of the two members upon the  
12 advice and consent of the Senate shall become effective 30 days after  
13 their nomination by the Governor if the Senate has not given advice  
14 and consent on those nominations within that time period; the  
15 President of the Senate and the Speaker of the General Assembly each  
16 shall recommend to the Governor a public member for appointment  
17 within 20 days following the effective date of this act, and a  
18 recommendation made in this manner shall become effective if the  
19 Governor makes the appointment in accordance with the  
20 recommendation, in writing, within 10 days of the Governor's receipt  
21 thereof. In each instance where the Governor fails to make the  
22 appointment, the President of the Senate and the Speaker of the  
23 General Assembly shall make new recommendations subject to  
24 appointment by the Governor as determined in this section.

25 c. Each appointed director may be removed from office by the  
26 Governor for cause, upon the Governor's consideration of the findings  
27 and recommendations of an administrative law judge after a public  
28 hearing before the judge, and may be suspended by the Governor  
29 pending the completion of the hearing. Each director, before entering  
30 upon his duties, shall take and subscribe an oath to perform the duties  
31 of his office faithfully, impartially and justly to the best of his ability.  
32 A record of oaths shall be filed in the office of the Secretary of State.

33 d. The Governor shall designate one of the appointed members to  
34 be the chairman and chief executive officer of the trust and the  
35 directors shall biannually elect a vice-chairman from among the  
36 appointed directors. The chairman shall serve as such for a term of  
37 two years and until a successor has been designated. A chairman shall  
38 be eligible to succeed himself for one additional two-year term. The  
39 directors shall elect a secretary and treasurer, who need not be  
40 directors, and the same person may be elected to serve as both  
41 secretary and treasurer.

42 The powers of the trust are vested in the directors in office from  
43 time to time and four directors shall constitute a quorum at any  
44 meeting. Action may be taken and motions and resolutions adopted by  
45 the trust by the affirmative majority vote of those directors present,  
46 but in no event shall any action be taken or motions or resolutions

1 adopted without the affirmative vote of at least four members. No  
2 vacancy on the board of directors of the trust shall impair the right of  
3 a quorum of the directors to exercise the powers and perform the  
4 duties of the trust.

5 e. Each director and the treasurer of the trust shall execute a bond  
6 to be conditioned upon the faithful performance of the duties of the  
7 director or treasurer in a form and amount as may be prescribed by the  
8 State Treasurer. Bonds shall be filed in the office of the Secretary of  
9 State. At all times thereafter, the directors and treasurer shall maintain  
10 these bonds in full effect. All costs of the bonds shall be borne by the  
11 trust.

12 f. The directors of the trust shall serve without compensation, but  
13 the trust shall reimburse the directors for actual and necessary  
14 expenses incurred in the performance of their duties. Notwithstanding  
15 the provisions of any other law to the contrary, no officer or employee  
16 of the State shall be deemed to have forfeited or shall forfeit his office  
17 or employment or any benefits or emoluments thereof by reason of his  
18 acceptance of the office of ex officio director of the trust or his  
19 services thereon.

20 g. Each ex officio director may designate an officer of his  
21 department to represent him at meetings of the trust. Each designee  
22 may lawfully vote and otherwise act on behalf of the director for  
23 whom he constitutes the designee. The designation shall be delivered  
24 in writing to the trust and shall continue in effect until revoked or  
25 amended in writing and delivered to the trust.

26 h. The trust may be dissolved by law; provided the trust has no  
27 debts or obligations outstanding or that provision has been made for  
28 the payment or retirement of these debts or obligations. The trust shall  
29 continue in existence until dissolved by act of the Legislature. Upon  
30 any dissolution of the trust all property, funds and assets of the trust  
31 shall be vested in the State.

32 i. A true copy of the minutes of every meeting of the trust shall be  
33 forthwith delivered by and under the certification of the secretary  
34 thereof to the Governor and at the same time to the Senate and  
35 General Assembly. The time and act of this delivery shall be duly  
36 recorded on a delivery receipt. No action taken or motion or  
37 resolution adopted at a meeting by the trust shall have effect until 10  
38 days, exclusive of Saturdays, Sundays and public holidays, after a copy  
39 of the minutes has been delivered to the Governor, unless during the  
40 10-day period the Governor shall approve all or part of the actions  
41 taken or motions or resolutions adopted, in which case the action or  
42 motion or resolution shall become effective upon the approval.

43 If, in the 10-day period, the Governor returns the copy of the  
44 minutes with a veto of any action taken by the trust or any member  
45 thereof at that meeting, the action shall be of no effect. The Senate or  
46 General Assembly shall have the right to provide written comments

1 concerning the minutes to the Governor within the 10-day period,  
2 which comments shall be returned to the trust by the Governor with  
3 his approval or veto of the minutes.

4 The powers conferred in this subsection upon the Governor shall be  
5 exercised with due regard for the rights of the holders of bonds, notes  
6 and other obligations of the trust at any time outstanding, and nothing  
7 in, or done pursuant to, this subsection shall in any way limit, restrict  
8 or alter the obligation or powers of the trust or any representative or  
9 officer of the trust to carry out and perform each covenant, agreement  
10 or contract made or entered into by or on behalf of the trust with  
11 respect to its bonds, notes or other obligations or for the benefit,  
12 protection or security of the holders thereof.

13 j. No resolution or other action of the trust providing for the  
14 issuance of bonds, refunding bonds, notes or other obligations shall be  
15 adopted or otherwise made effective by the trust without the prior  
16 approval in writing of the Governor and the State Treasurer. The trust  
17 shall provide the Senate and General Assembly with written notice of  
18 any request for approval of the Governor and State Treasurer at the  
19 time the request is made, and shall also provide the Senate and General  
20 Assembly written notice of the response of the Governor and State  
21 Treasurer at the time that the response is received by the trust.

22 (cf: P.L.1997, c.224, s.5)

23  
24 4. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read  
25 as follows:

26 5. Except as otherwise limited by the provisions of P.L.1985, c.334  
27 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or  
28 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
29 bill), the trust may:

30 a. Make and alter bylaws for its organization and internal  
31 management and, subject to agreements with holders of its bonds,  
32 notes or other obligations, make rules and regulations with respect to  
33 its operations, properties and facilities;

34 b. Adopt an official seal and alter it;

35 c. Sue and be sued;

36 d. Make and enter into all contracts, leases and agreements,  
37 including solid waste facility debt agreements, necessary or incidental  
38 to the performance of its duties and the exercise of its powers under  
39 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**,  
40 P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28  
41 et seq.)(pending in the Legislature as this bill), and subject to any  
42 agreement with the holders of the trust's bonds, notes or other  
43 obligations, consent to any modification, amendment or revision of any  
44 contract, lease or agreement to which the trust is a party;

45 e. Enter into agreements or other transactions with and accept,  
46 subject to the provisions of section 23 of P.L.1985, c.334

1 (C.58:11B-23), grants, appropriations and the cooperation of the  
2 State, or any State agency, in furtherance of the purposes of P.L.1985,  
3 c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et  
4 al.) or P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature  
5 as this bill), and do anything necessary in order to avail itself of that  
6 aid and cooperation;

7 f. Receive and accept aid or contributions from any source of  
8 money, property, labor or other things of value, to be held, used and  
9 applied to carry out the purposes of P.L.1985, c.334 (C.58:11B-1 et  
10 seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c.  
11 (C.58:11B-28 et seq.)(pending in the Legislature as this bill), subject  
12 to the conditions upon which that aid and those contributions may be  
13 made, including, but not limited to, gifts or grants from any  
14 department or agency of the State, or any State agency, for any  
15 purpose consistent with the provisions of P.L.1985, c.334  
16 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or  
17 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
18 bill), subject to the provisions of section 23 of P.L.1985, c.334  
19 (C.58:11B-23);

20 g. Acquire, own, hold, construct, improve, rehabilitate, renovate,  
21 operate, maintain, sell, assign, exchange, lease, mortgage or otherwise  
22 dispose of real and personal property, or any interest therein, in the  
23 exercise of its powers and the performance of its duties under the  
24 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997,  
25 c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et  
26 seq.)(pending in the Legislature as this bill);

27 h. Appoint and employ an executive director and any other officers  
28 or employees as it may require for the performance of its duties,  
29 without regard to the provisions of Title 11A of the New Jersey  
30 Statutes;

31 i. Borrow money and issue bonds, notes and other obligations, and  
32 secure the same, and provide for the rights of the holders thereof as  
33 provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.)  
34 **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c.  
35 (C.58:11B-28 et seq.)(pending in the Legislature as this bill);

36 j. Subject to any agreement with holders of its bonds, notes or  
37 other obligations, invest moneys of the trust not required for  
38 immediate use, including proceeds from the sale of any bonds, notes  
39 or other obligations, with respect to bonds, notes or other obligations  
40 authorized under the provisions of P.L. , c. (C.58:11B-28 et  
41 seq.)(pending in the Legislature as this bill), either in accordance with  
42 the terms of any solid waste facility debt agreement, or together with  
43 all other bonds authorized under the provisions of P.L.1985, c.334  
44 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), in any  
45 obligations, securities and other investments in accordance with the  
46 rules and regulations of the State Investment Council or as may

1 otherwise be approved by the Director of the Division of Investment  
2 in the Department of the Treasury upon a finding that such  
3 investments are consistent with the corporate purposes of the trust;

4 k. Procure insurance to secure the payment of its bonds, notes or  
5 other obligations or the payment of any guarantees or loans made by  
6 it in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1  
7 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c.  
8 (C.58:11B-28 et seq.)(pending in the Legislature as this bill), or  
9 against any loss in connection with its property and other assets and  
10 operations, in any amounts and from any insurers as it deems desirable;

11 l. Engage the services of attorneys, accountants, engineers, and  
12 financial experts and any other advisors, consultants, experts and  
13 agents as may be necessary in its judgment and fix their compensation;

14 m. (1) Make and contract to make loans to local government units  
15 to finance the cost of wastewater treatment system projects or water  
16 supply projects and acquire and contract to acquire notes, bonds or  
17 other obligations issued or to be issued by local government units to  
18 evidence the loans, all in accordance with the provisions of P.L.1985,  
19 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

20 (2) Make and contract to make loans to public water utilities to  
21 finance the cost of water supply projects in accordance with the  
22 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224  
23 (C.58:11B-10.1 et al.);

24 (3) Make and contract to make loans to local government units,  
25 which loans may secure one or more series of bonds issued by the trust  
26 and which may be made at a market rate, subsidized rate or zero rate  
27 of interest, and which may be for such period of time, rank or priority  
28 of repayment, with or without consideration, and with such other  
29 terms and conditions as provided in a solid waste facility debt  
30 agreement;

31 n. Subject to any agreement with holders of its bonds, notes or  
32 other obligations, purchase bonds, notes and other obligations of the  
33 trust and hold the same for resale or provide for the cancellation  
34 thereof, all in accordance with the provisions of P.L.1985, c.334  
35 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or  
36 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
37 bill);

38 o. (1) Charge to and collect from local government units or public  
39 water utilities any fees and charges in connection with the trust's loans,  
40 guarantees or other services, including, but not limited to, fees and  
41 charges sufficient to reimburse the trust for all reasonable costs  
42 necessarily incurred by it in connection with its financings and the  
43 establishment and maintenance of reserve or other funds, as the trust  
44 may determine to be reasonable. The fees and charges shall be in  
45 accordance with a uniform schedule published by the trust for the  
46 purpose of providing actual cost reimbursement for the services

1 rendered;

2 (2) Any fees and charges collected by the trust pursuant to this  
3 subsection may be deposited and maintained in a fund separate from  
4 any other funds held by the trust pursuant to section 10 of P.L.1985,  
5 c.334 (C.58:11B-10) or section 23 of P.L.1997, c.224 (C.58:11B-10.1  
6 et al.) and shall be available for any corporate purposes of the trust;

7 p. Subject to any agreement with holders of its bonds, notes or  
8 other obligations, obtain as security or to provide liquidity for payment  
9 of all or any part of the principal of and interest and premium on the  
10 bonds, notes and other obligations of the trust or for the purchase  
11 upon tender or otherwise of the bonds, notes or other obligations,  
12 lines of credit, letters of credit and other security agreements or  
13 instruments in any amounts and upon any terms as the trust may  
14 determine, and pay any fees and expenses required in connection  
15 therewith;

16 q. Provide to local government units any financial and credit advice  
17 as these local government units may request;

18 r. Make payments to the State from any moneys of the trust  
19 available therefor as may be required pursuant to any agreement with  
20 the State or act appropriating moneys to the trust; and

21 s. Provide for:

22 (1) the issuance of bonds and the execution of solid waste facility  
23 debt agreements for the purpose, among other things, of the refunding  
24 or rescheduling of solid waste facility bond debt service payment times  
25 or amounts, the extension of maturities, the defeasance, escrow, or  
26 escrow to maturity or some other date or otherwise provide for the  
27 payment of all or a portion of any series of solid waste facility bonds;  
28 and

29 (2) the receipt or execution of any approvals, consents, waivers,  
30 amendments, supplements or other agreements necessary, desirable or  
31 convenient to effectuate such purposes.

32 The foregoing may be achieved through any combination of the  
33 following actions:

34 (a) the issuance of bonds by the trust to refund, escrow to maturity  
35 or some other date or otherwise provide for the payment of all or a  
36 portion of solid waste facility bonds; or refund, escrow to maturity or  
37 some other date or otherwise provide for the payment of all or a  
38 portion of any series of previously issued local government unit bonds  
39 or bonds issued by the trust; and, if applicable, the execution of a solid  
40 waste facility debt agreement;

41 (b) the issuance of local government unit bonds and, if applicable,  
42 the execution of a solid waste facility debt agreement to directly or  
43 indirectly provide full or partial security for any series of local  
44 government unit bonds or bonds issued by the trust;

45 (c) the making of loans by the trust; or

46 (d) the adoption and execution of solid waste facility debt



1 guarantees to directly or indirectly provide full or partial security for  
2 any series of local government unit bonds or loans made by the trust,  
3 which may provide direct or indirect, full or partial security for any  
4 bonds issued by the trust;

5 t. Take any action necessary or convenient to the exercise of the  
6 foregoing powers or reasonably implied therefrom.

7 (cf: P.L.1997, c.224, s.6)

8  
9 5. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read  
10 as follows:

11 6. a. Except as may be otherwise expressly provided in the  
12 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997,  
13 c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et  
14 seq.)(pending in the Legislature as this bill), the trust may from time  
15 to time issue its bonds, notes or other obligations in any principal  
16 amounts as in the judgment of the trust shall be necessary to provide  
17 sufficient funds for any of its corporate purposes, including the  
18 purposes including the payment, funding or refunding of the principal  
19 of, or interest or redemption premiums on, any bonds, notes or other  
20 obligations issued by it, whether the bonds, notes or other obligations  
21 or the interest or redemption premiums thereon to be funded or  
22 refunded have or have not become due, the establishment or increase  
23 of reserves or other funds to secure or to pay the bonds, notes or other  
24 obligations or interest thereon and all other costs or expenses of the  
25 trust incident to and necessary to carry out its corporate purposes and  
26 powers.

27 b. Whether or not the bonds, notes or other obligations of the trust  
28 are of a form and character as to be negotiable instruments under the  
29 terms of Title 12A of the New Jersey Statutes, the bonds, notes and  
30 other obligations are made negotiable instruments within the meaning  
31 of and for the purposes of Title 12A of the New Jersey Statutes,  
32 subject only to the provisions of the bonds, notes and other obligations  
33 for registration.

34 c. Bonds, notes or other obligations of the trust shall be authorized  
35 by a resolution or resolutions of the trust and may be issued in one or  
36 more series and shall bear any date or dates, mature at any time or  
37 times, bear interest at any rate or rates of interest per annum, be in any  
38 denomination or denominations, be in any form, either coupon,  
39 registered or book entry, carry any conversion or registration  
40 privileges, have any rank or priority, be executed in any manner, be  
41 payable in any coin or currency of the United States which at the time  
42 of payment is legal tender for the payment of public and private debts,  
43 at any place or places within or without the State, and be subject to  
44 any terms of redemption by the trust or the holders thereof, with or  
45 without premium, as the resolution or resolutions may provide. A  
46 resolution of the trust authorizing the issuance of bonds, notes or

1 other obligations may provide that the bonds, notes or other  
2 obligations be secured by a trust indenture between the trust and a  
3 trustee, vesting in the trustee any property, rights, powers and duties  
4 in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1  
5 et seq.) **【or】** P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this bill) as the  
6 trust may determine.  
7

8 d. Bonds, notes or other obligations of the trust may be sold at any  
9 price or prices and in any manner as the trust may determine. Each  
10 bond, note or other obligation shall mature and be paid not later than  
11 40 years from the effective date thereof for bonds, notes or other  
12 obligations of the trust issued pursuant to P.L. , c. (C.58:11B-28  
13 et seq.)(pending in the Legislature as this bill), or not later than 20  
14 years from the effective date thereof for all other bonds, notes or other  
15 obligations of the trust, or the certified useful life of the project or  
16 projects to be financed by the bonds, whichever is less.

17 All bonds of the trust shall be sold at such price or prices and in  
18 such manner as the trust shall determine, at public or private sale for  
19 bonds, notes or other obligations of the trust issued pursuant to  
20 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
21 bill), or for all other bonds, notes or other obligations of the trust,  
22 after notice of sale, a summary of which shall be published at least  
23 once in at least three newspapers published in the State of New Jersey,  
24 and at least once in a publication carrying municipal bond notices and  
25 devoted primarily to financial news, published in New Jersey or the  
26 city of New York, the first notice to be at least five days prior to the  
27 day of bidding. The notice of sale may contain a provision to the effect  
28 that any or all bids made in pursuance thereof may be rejected. In the  
29 event of such rejection or of failure to receive any acceptable bid, the  
30 trust, at any time within 60 days from the date of such advertised sale,  
31 may sell such bonds at private sale upon terms not less favorable to the  
32 State than the terms offered by any rejected bid. The trust may sell all  
33 or part of the bonds of any series as issued to any State fund or to the  
34 federal government or any agency thereof, at private sale, without  
35 advertisement.

36 e. Bonds, notes or other obligations of the trust may be issued  
37 under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**,  
38 P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28  
39 et seq.)(pending in the Legislature as this bill) without obtaining the  
40 consent of any department, division, board, bureau or agency of the  
41 State, and without any other proceedings or the happening of any  
42 other conditions or things, other than those consents, proceedings,  
43 conditions or things which are specifically required by P.L.1985, c.334  
44 (C.58:11B-1 et seq.) **【or】** P.L.1997, c.224 (C.58:11B-10.1 et al.) or  
45 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
46 bill).

1 f. Bonds, notes or other obligations of the trust issued under the  
2 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997,  
3 c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et  
4 seq.)(pending in the Legislature as this bill) shall not be a debt or  
5 liability of the State or of any political subdivision thereof other than  
6 the trust and shall not create or constitute any indebtedness, liability  
7 or obligation of the State or any political subdivision, but all these  
8 bonds, notes and other obligations, unless funded or refunded by  
9 bonds, notes or other obligations, shall be payable solely from  
10 revenues or funds pledged or available for their payment as authorized  
11 in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224  
12 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending  
13 in the Legislature as this bill). Each bond, note and obligation shall  
14 contain on its face a statement to the effect that the trust is obligated  
15 to pay the principal thereof or the interest thereon only from its  
16 revenues, receipts or funds pledged or available for their payment as  
17 authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997,  
18 c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et  
19 seq.)(pending in the Legislature as this bill), and that neither the State,  
20 nor any political subdivision thereof, is obligated to pay the principal  
21 or interest and that neither the faith and credit nor the taxing power of  
22 the State, or any political subdivision thereof, is pledged to the  
23 payment of the principal of or the interest on the bonds, notes or other  
24 obligations.

25 g. The aggregate principal amount of bonds, notes or other  
26 obligations, including subordinated indebtedness of the trust, shall not  
27 exceed **【\$1,000,000,000.00】** \$3,000,000,000.00. In computing the  
28 foregoing limitations there shall be excluded all the bonds, notes or  
29 other obligations, including subordinated indebtedness of the trust,  
30 which shall be issued for refunding purposes, whenever the refunding  
31 shall be determined to result in a debt service savings, as hereinafter  
32 provided:

33 (1) Upon the decision by the trust to issue **【refunding】** bonds that  
34 refund all or a portion of a prior series of bonds, and prior to the sale  
35 of those bonds, the trust shall transmit to the Joint **【Appropriations**  
36 **Committee's Subcommittee on Transfers】** Budget Oversight  
37 Committee, or its successor, a report that a decision has been made,  
38 reciting the basis on which the decision was made, including an  
39 estimate of the debt service savings to be achieved and the calculations  
40 upon which the trust relied when making the decision to issue  
41 refunding bonds. The report shall also disclose the intent of the trust  
42 to issue and sell the refunding bonds at public or private sale and the  
43 reasons therefor.

44 (2) The Joint **【Appropriations Committee's Subcommittee on**  
45 **Transfers】** Budget Oversight Committee shall have the authority to  
46 approve or disapprove the sales of refunding bonds as included in each

1 report submitted in accordance with paragraph (1) of this subsection.  
2 The **【subcommittee】** Joint Budget Oversight Committee shall notify  
3 the trust in writing of the approval or disapproval as expeditiously as  
4 possible.

5 (3) No refunding bonds shall be issued unless the report has been  
6 submitted to and approved by the Joint **【Appropriations Committee's**  
7 **Subcommittee on Transfers】** Budget Oversight Committee as set forth  
8 in paragraphs (1) and (2) of this subsection.

9 (4) Within 30 days after the sale of the refunding bonds, the trust  
10 shall notify the **【Subcommittee on Transfers】** Joint Budget Oversight  
11 Committee of the result of that sale, including the prices and terms,  
12 conditions and regulations concerning the refunding bonds, the actual  
13 amount of debt service savings to be realized as a result of the sale of  
14 refunding bonds, and the intended use of the proceeds from the sale of  
15 those bonds.

16 (5) The **【subcommittee】** Joint Budget Oversight Committee shall  
17 review all information and reports submitted in accordance with this  
18 subsection and may, on its own initiative, make observations to the  
19 trust, or to the Legislature, or both, as it deems appropriate.

20 h. Each issue of bonds, notes or other obligations of the trust may,  
21 if it is determined by the trust, be general obligations thereof payable  
22 out of any revenues, receipts or funds of the trust, or special  
23 obligations thereof payable out of particular revenues, receipts or  
24 funds, subject only to any agreements with the holders of bonds, notes  
25 or other obligations, and may be secured by one or more of the  
26 following:

27 (1) Pledge of revenues and other receipts to be derived from the  
28 payment of the interest on and principal of notes, bonds or other  
29 obligations issued to the trust by one or more local government units,  
30 and any other payment made to the trust pursuant to agreements with  
31 any local government units, or a pledge or assignment of any notes,  
32 bonds or other obligations of any local government unit and the rights  
33 and interest of the trust therein;

34 (2) Pledge of rentals, receipts and other revenues to be derived  
35 from leases or other contractual arrangements with any person or  
36 entity, public or private, including one or more local government units,  
37 or a pledge or assignment of those leases or other contractual  
38 arrangements and the rights and interest of the trust therein;

39 (3) Pledge of all moneys, funds, accounts, securities and other  
40 funds, including the proceeds of the bonds, notes or other obligations;

41 (4) Pledge of the receipts to be derived from the payments of State  
42 aid, payable to the trust pursuant to section 12 of P.L.1985, c.334  
43 (C.58:11B-12);

44 (5) A mortgage on all or any part of the property, real or personal,  
45 of the trust then owned or thereafter to be acquired, or a pledge or  
46 assignment of mortgages made to the trust by any person or entity,

1 public or private, including one or more local government units and  
2 the rights and interest of the trust therein.

3 i. **【The trust shall not issue any bonds, notes or other obligations,**  
4 **or otherwise incur any additional indebtedness, on or after November**  
5 **5, 2005】** (Deleted by amendment, P.L. , c. ).

6 j. (Deleted by amendment, P.L.1996, c.88).  
7 (cf: P.L.1997, c.224, s.7)

8

9 6. Section 7 of P.L.1985, c.334 (C.58:11B-7) is amended to read  
10 as follows:

11 7. In any resolution of the trust authorizing or relating to the  
12 issuance of any of its bonds, notes or other obligations, or in any solid  
13 waste facility debt agreement relating to the security for any of its  
14 bonds, the trust, in order to secure the payment of the bonds, notes or  
15 other obligations and in addition to its other powers, may by  
16 provisions therein which shall constitute covenants by the trust and  
17 contracts with the holders of the bonds, notes or other obligations:

18 a. Secure the bonds, notes or other obligations as provided in  
19 section 6 of P.L.1985, c.334 (C.58:11B-6);

20 b. Covenant against pledging all or part of its revenues **【or】**,  
21 receipts, funds or other real or personal property or its solid waste  
22 facility debt agreements or revenues thereunder or the proceeds  
23 thereof, or against mortgaging all or any part of its real or personal  
24 property then owned or thereafter acquired, or against permitting or  
25 suffering any lien on any of the foregoing;

26 c. Covenant with respect to limitations on any right to sell,  
27 mortgage, lease or otherwise dispose of any notes, bonds or other  
28 obligations of local government units, or any part thereof, or any real  
29 or personal property of any kind;

30 d. Covenant as to any bonds, notes or other obligations to be  
31 issued by the trust, and the limitations thereon, and the terms and  
32 conditions thereof, and as to the custody, application, investment and  
33 disposition of the proceeds thereof;

34 e. Covenant as to the issuance of additional bonds, notes or other  
35 obligations of the trust or as to limitations on the issuance of  
36 additional bonds, notes or other obligations and on the incurring of  
37 other debts by it;

38 f. Covenant as to the payment of the principal of or interest on  
39 bonds, notes or other obligations of the trust, as to the sources and  
40 methods of payment, as to the rank or priority of the bonds, notes or  
41 other obligations with respect to any lien or security or as to the  
42 acceleration of the maturity of the bonds, notes or other obligations;

43 g. Provide for the replacement of lost, stolen, destroyed or  
44 mutilated bonds, notes or other obligations of the trust;

45 h. Covenant against extending the time for the payment of bonds,  
46 notes or other obligations of the trust or interest thereon;

- 1 i. Covenant as to the redemption of bonds, notes and other  
2 obligations by the trust or the holders thereof and privileges of  
3 exchange thereof for other bonds, notes or other obligations of the  
4 trust;
- 5 j. Covenant to create or authorize the creation of special funds or  
6 accounts to be held in trust or otherwise for the benefit of holders of  
7 bonds, notes and other obligations of the trust, or reserves for other  
8 purposes and as to the use, investment, and disposition of moneys held  
9 in those funds, accounts or reserves;
- 10 k. Provide for the rights and liabilities, powers and duties arising  
11 upon the breach of any covenant, condition or obligation and prescribe  
12 the events of default and terms and conditions upon which any or all  
13 of the bonds, notes or other obligations of the trust shall become or  
14 may be declared due and payable before maturity and the terms and  
15 conditions upon which the declaration and its consequences may be  
16 waived;
- 17 l. Vest in a trustee or trustees within or without the State any  
18 property, rights, powers and duties in trust as the trust may determine,  
19 which may include any or all of the rights, powers and duties of any  
20 trustee appointed by the holders of any bonds, notes or other  
21 obligations of the trust pursuant to section 18 of P.L.1985, c.334  
22 (C.58:11B-18), including rights with respect to the sale or other  
23 disposition of notes, bonds or other obligations of local government  
24 units pledged pursuant to a resolution or trust indenture for the benefit  
25 of the holders of bonds, notes or other obligations of the trust and the  
26 right by suit or action to foreclose any mortgage pledged pursuant to  
27 the resolution or trust indenture for the benefit of the holders of the  
28 bonds, notes or other obligations, and to limit or abrogate the right of  
29 the holders of any bonds, notes or other obligations of the trust to  
30 appoint a trustee under the provisions of P.L.1985, c.334 (C.58:11B-1  
31 et seq.) **【or】** P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this bill), and to  
32 limit the rights, duties and powers of the trustee;
- 33 m. Pay the costs or expenses incident to the enforcement of the  
34 bonds, notes or other obligations of the trust or of the provisions of  
35 the resolution authorizing the issuance of those bonds, notes or other  
36 obligations or of any covenant or agreement of the trust with the  
37 holders of the bonds, notes or other obligations;
- 38 n. Limit the rights of the holders of any bonds, notes or other  
39 obligations of the trust to enforce any pledge or covenant securing the  
40 bonds, notes or other obligations; and
- 41 o. Make covenants other than or in addition to the covenants  
42 authorized by P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997,  
43 c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)  
44 (pending in the Legislature as this bill) of like or different character,  
45 and make covenants to do or refrain from doing any acts and things as  
46

1 may be necessary, or convenient and desirable, in order to better  
2 secure the bonds, notes or other obligations of the trust, or to lower  
3 the repayment obligations or other costs to the local government units  
4 with respect to loans made by the trust or local government unit  
5 bonds, or which, in the absolute discretion of the trust, would make  
6 the bonds, notes or other obligations more marketable,  
7 notwithstanding that the covenants, acts or things may not be  
8 enumerated herein.

9 (cf: P.L.1997, c.224, s.8)

10  
11 7. (New section) In addition to the powers conferred upon the  
12 trust pursuant to the provisions of P.L.1985, c.334 (C.58:11B-1 et  
13 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), the trust may:

14 a. Enter into solid waste facility debt agreements with any local  
15 government unit or any other person to: (1) secure any series of bonds  
16 issued by the trust or local government unit bonds; (2) secure the  
17 repayment of any loans made by the trust; or (3) further any of the  
18 trust's other corporate purposes under the provisions of P.L. , c.  
19 (C.58:11B-28 et seq.)(pending in the Legislature as this bill).

20 b. Every solid waste facility debt agreement between the trust and  
21 any local government unit or any other person shall be of such  
22 duration, with or without consideration, payable from such sources,  
23 with such collateral, security, termination penalty, default and remedy  
24 provisions, and upon such other terms and conditions as the parties  
25 shall determine, subject to the approval of the State Treasurer.

26 (1) Any solid waste facility debt agreement may provide that a  
27 local government unit, including a county that has adopted a solid  
28 waste facility debt guarantee, shall impose such lawfully authorized  
29 fees and charges or other source of revenue as the trust, subject to the  
30 approval of the State Treasurer, may require to ensure the  
31 competitiveness of the county solid waste facility.

32 (2) Any of the foregoing parties may enter into a solid waste  
33 facility debt agreement without the trust as a party.

34 (3) Any solid waste facility debt agreement pursuant to which the  
35 trust contracts to make a loan shall include a provision requiring the  
36 local government unit to submit to an operational audit to be  
37 conducted or contracted for by the State Treasurer. To the extent that  
38 recommendations are made by the State Treasurer pursuant to an  
39 audit, the solid waste facility debt agreement may include a provision  
40 requiring the local government unit to agree to implement any such  
41 recommendations to the satisfaction of the State Treasurer.

42 (4) No solid waste facility debt agreement entered into with the  
43 trust or otherwise related to the security for the bonds issued by the  
44 trust shall take effect until the State Treasurer has approved the terms  
45 and conditions thereof.

46 c. The trust may establish any reserves, funds, accounts or

1 subaccounts as it may determine necessary, desirable or convenient to  
2 further the accomplishment of the corporate purposes of the trust  
3 under the provisions of P.L. , c. (C.58:11B-28 et seq.)(pending in  
4 the Legislature as this bill) or to comply with the provisions of any  
5 solid waste facility debt agreement or any resolution of the trust  
6 authorizing the issuance of bonds by the trust.

7  
8 8. Section 8 of P.L.1985, c.334 (C.58:11B-8) is amended to read  
9 as follows:

10 8. Any pledge of revenues, receipts, moneys, funds, or other real  
11 or personal property or instruments made by the trust under a  
12 resolution, solid waste facility debt agreement or otherwise shall be  
13 valid and binding from the time when the pledge is made. The  
14 revenues, receipts, moneys, funds or other real or personal property  
15 so pledged and thereafter received by the trust shall immediately be  
16 subject to the lien of the pledge without any physical delivery thereof  
17 or further act, and the lien of any pledge shall be valid and binding as  
18 against all parties having claims of any kind in tort, contract or  
19 otherwise against the trust, irrespective of whether the parties have  
20 notice thereof. Neither the resolution authorizing the issuance of  
21 bonds, any solid waste facility debt agreement relating to the security  
22 for bonds nor any other instrument by which a pledge of revenues,  
23 receipts, moneys, funds, or other real or personal property under this  
24 section is created need be filed or recorded, except in the records of  
25 the trust.

26 (cf: P.L.1985, c.334, s.8)

27  
28 9. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read  
29 as follows:

30 9. a. (1) The trust may make and contract to make loans to local  
31 government units in accordance with and subject to the provisions of  
32 P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224  
33 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment  
34 system project or water supply project, which the local government  
35 unit may lawfully undertake or acquire and for which the local  
36 government unit is authorized by law to borrow money.

37 (2) The trust may make and contract to make loans to public water  
38 utilities in accordance with and subject to the provisions of P.L.1985,  
39 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.)  
40 to finance the cost of any water supply project, which the public water  
41 utility may lawfully undertake or acquire.

42 (3) The trust may make and contract to make loans to local  
43 government units, which loans may secure one or more series of bonds  
44 issued by the trust and which may be made at a market rate, subsidized  
45 rate or zero rate of interest, and which may be for such period of time,  
46 rank or priority of repayment, with or without consideration, and with



1 such other terms and conditions as provided in a solid waste facility  
2 debt agreement between the local government unit and the trust, all in  
3 accordance with and subject to the provisions of P.L.1985, c.334  
4 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.) and  
5 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
6 bill).

7 The loans may be made subject to those terms and conditions as the  
8 trust shall determine to be consistent with the purposes thereof. Each  
9 loan by the trust and the terms and conditions thereof shall be subject  
10 to approval by the State Treasurer, and the trust shall make available  
11 to the State Treasurer all information, statistical data and reports of  
12 independent consultants or experts as the State Treasurer shall deem  
13 necessary in order to evaluate the loan. Each loan to a local  
14 government unit or public water utility shall be evidenced by notes,  
15 bonds or other obligations thereof issued to the trust. In the case of  
16 each local government unit, notes and bonds to be issued to the trust  
17 by the local government unit (1) shall be authorized and issued as  
18 provided by law for the issuance of notes and bonds by the local  
19 government unit, (2) shall be approved by the Local Finance Board in  
20 the Division of Local Government Services in the Department of  
21 Community Affairs, and (3) notwithstanding the provisions of  
22 N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other  
23 provisions of law to the contrary, may be sold at private sale to the  
24 trust at any price, whether or not less than par value, and shall be  
25 subject to redemption prior to maturity at any times and at any prices  
26 as the trust and local government units may agree. Each loan to a local  
27 government unit or public water utility and the notes, bonds or other  
28 obligations thereby issued shall bear interest at a rate or rates per  
29 annum as the trust and the local government unit or public water  
30 utility, as the case may be, may agree.

31 b. The trust is authorized to guarantee or contract to guarantee the  
32 payment of all or any portion of the principal and interest on bonds,  
33 notes or other obligations issued by a local government unit to finance  
34 the cost of any wastewater treatment system project or water supply  
35 project, which the local government unit may lawfully undertake or  
36 acquire and for which the local government unit is authorized by law  
37 to borrow money, and the guarantee shall constitute an obligation of  
38 the trust for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.) or  
39 P.L.1997, c.224 (C.58:11B-10.1 et al.). Each guarantee by the trust  
40 and the terms and conditions thereof shall be subject to approval by  
41 the State Treasurer, and the trust shall make available to the State  
42 Treasurer all information, statistical data and reports of independent  
43 consultants or experts as the State Treasurer shall deem necessary in  
44 order to evaluate the guarantee.

45 c. **【**The trust shall not make or contract to make any loans or  
46 guarantees to local government units or public water utilities, or

1 otherwise incur any additional indebtedness, on or after November 5,  
2 2005.】 (Deleted by amendment, P.L. , c. ).  
3 (cf: P.L.1997, c.224, s.9)

4  
5 10. (New section) The provisions of any other law, rule or  
6 regulation to the contrary notwithstanding, any local government unit  
7 may enter into a solid waste facility debt agreement with the trust to:

8 a. secure any series of bonds issued by the trust or local  
9 government unit bonds;

10 b. secure the repayment of any loans made by the trust; or

11 c. fulfill any other requirement of the trust as may be provided  
12 under the provisions of P.L. , c. (C.58:11B-28 et seq.)(pending in  
13 the Legislature as this bill).

14  
15 11. (New section) a. Local government unit bonds may be sold at  
16 private sale to the trust for assignment to a trustee for the holder of  
17 bonds issued by the trust or directly to such trustee.

18 (1) Local government unit bonds may secure one or more series of  
19 bonds issued by the trust, may evidence the repayment obligations of  
20 a local government unit under a loan made by the trust, and may be  
21 issued at a market rate, subsidized rate or zero rate of interest, or with  
22 a fixed or variable rate of interest, and may be for such period of time,  
23 rank or priority of repayment, with or without consideration, and with  
24 such other terms and conditions as provided in the local government  
25 unit bond and in any resolution of the local government unit  
26 authorizing the issuance of the local government unit bonds, which  
27 terms and conditions may consist of and reflect any terms and  
28 conditions of bonds issued by the trust pursuant to the provisions of  
29 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
30 bill).

31 (2) Except as otherwise provided in the provisions of P.L. , c.  
32 (C.58:11B-28 et seq.)(pending in the Legislature as this bill), local  
33 government unit bonds shall be issued in accordance with the  
34 provisions of the "municipal and county utilities authorities law,"  
35 P.L.1957, c.183 (C.40:14B-1 et seq.), the "county improvement  
36 authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.), the "New  
37 Jersey Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-  
38 1 et seq.), the refunding provisions of the "Local Bond Law"  
39 (N.J.S.40A:2-1 et seq.), as applicable, or other applicable provisions  
40 of law, including without limitation, the "Local Authorities Fiscal  
41 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

42 b. The governing body of the county in which the principal  
43 corporate office of a local government unit is located may adopt and  
44 execute a solid waste facility debt guarantee with respect to a local  
45 government unit bond issued by the local government unit, thereby  
46 obligating the county to guarantee the payment or repayment of the

1 local government unit bond.

2 (1) The governing body of any county may adopt an ordinance in  
3 the manner provided for a bond ordinance to be introduced and  
4 adopted in accordance with the provisions of the "Local Bond Law"  
5 (N.J.S.40A:2-1 et seq.), and with or without consideration, for any  
6 duration and upon such other terms and conditions as may be agreed  
7 to by the county, public authority and the trust, which shall  
8 unconditionally and irrevocably guarantee the payment of the principal  
9 of, redemption premium, if any, and interest on all or any portion of  
10 the local government unit bond when due.

11 (2) Any solid waste facility debt guarantee made by a county  
12 pursuant to this section shall be evidenced by endorsement thereof on  
13 the local government unit bond, executed in the name of the county  
14 and on its behalf by such officer thereof as may be designated in the  
15 ordinance authorizing the solid waste facility debt guarantee. Upon the  
16 endorsement and execution of the solid waste facility debt guarantee  
17 and thereafter until the final maturity, stated or otherwise, of the local  
18 government unit bond, the county shall be obligated to pay the  
19 principal of, redemption premium, if any, and interest on the  
20 government unit bond in the same manner and to the same extent as in  
21 the case of bonds issued by the county under the "Local Bond Law"  
22 (N.J.S.40A:2-1 et seq.).

23 c. The governing body of a county that has adopted and executed  
24 a solid waste facility debt guarantee with respect to a local government  
25 unit bond pursuant to this section shall be obligated, if necessary, to  
26 levy ad valorem taxes upon all the taxable property within the  
27 jurisdiction of the county, without limitation as to the rate thereof or  
28 the amount required, in order to make the payments when due as  
29 hereinbefore provided.

30 d. Any solid waste facility debt guarantee by a county pursuant to  
31 this section may be made, and any ordinance authorizing the solid  
32 waste facility debt guarantee may be adopted, notwithstanding any  
33 statutory debt or other limitations, including any limitation or  
34 requirement under the "Local Bond Law" (N.J.S.40A:2-1 et seq.),  
35 except that the principal amount of the local government unit bonds so  
36 guaranteed, after issuance, shall be included in the gross debt of the  
37 county under the "Local Bond Law."

38 e. The principal amount of the local government unit bonds  
39 guaranteed by, and included in, the gross debt of the county shall be  
40 deductible and shall constitute a deduction from the gross debt of the  
41 county under the "Local Bond Law" (N.J.S.40A:2-1 et seq.) as  
42 follows: (1) upon issuance of the local government unit bond and until  
43 final maturity, stated or otherwise; and (2) in any annual debt  
44 statement filed pursuant to the "Local Bond Law" after issuance of the  
45 local government unit bond and until final maturity, stated or  
46 otherwise, but only to the extent that the revenues or other receipts of

1 moneys of the local government unit in any such year are sufficient to  
2 pay the principal of, including any mandatory sinking fund  
3 installments, redemption premium, if any, and interest on the local  
4 government bonds, without calling on the county to satisfy its payment  
5 obligations under the solid waste facility debt guarantee.

6  
7 12. Section 13 of P.L.1985, c.334 (C.58:11B-13) is amended to  
8 read as follows:

9 13. Neither the directors of the trust nor any person executing  
10 bonds, notes or other obligations of the trust issued pursuant to  
11 P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224  
12 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending  
13 in the Legislature as this bill) shall be liable personally on the bonds,  
14 notes or other obligations by reason of the issuance thereof.  
15 (cf: P.L.1997, c.224, s.11)

16  
17 13. Section 14 of P.L.1985, c.334 (C.58:11B-14) is amended to  
18 read as follows:

19 14. The State does pledge to and covenant and agree with the  
20 holders of any bonds, notes or other obligations of the trust issued  
21 pursuant to authorization of P.L.1985, c.334 (C.58:11B-1 et seq.)  
22 **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c.  
23 (C.58:11B-28 et seq.)(pending in the Legislature as this bill) that the  
24 State shall not limit or alter the rights or powers vested in the trust, or  
25 limit or alter the rights or powers vested in the State Treasurer  
26 pursuant to the provisions of P.L. , c. (C.58:11B-28 et  
27 seq.)(pending in the Legislature as this bill), to perform and fulfill the  
28 terms of any solid waste facility debt agreement or other agreement  
29 made with the holders of the bonds, notes or other obligations or to  
30 fix, establish, charge and collect any rents, fees, rates, payments or  
31 other charges as may be convenient or necessary to produce sufficient  
32 revenues to meet all expenses of the trust and to fulfill the terms of any  
33 solid waste facility debt agreement or other agreement made with the  
34 holders of bonds, notes or other obligations, including the obligations  
35 to pay the principal of and interest and premium on those bonds, notes  
36 or other obligations, with interest on any unpaid installments of  
37 interest, and all costs and expenses in connection with any action or  
38 proceedings by or on behalf of the holders, and shall not limit or alter  
39 the rights and powers of any local government unit to pay and perform  
40 its obligations owed to the trust in connection with loans received  
41 from the trust, until the bonds, notes and other obligations of the trust,  
42 together with interest thereon, are fully met and discharged or  
43 provided for.

44 The failure of the Legislature to appropriate moneys for any  
45 purpose set forth in the provisions of P.L. , c. (C.58:11B-28 et  
46 seq.)(pending in the Legislature as this bill) shall not constitute a

1 violation of the provisions of this section.

2 (cf: P.L.1997, c.224, s.12)

3  
4 14. Section 15 of P.L.1985, c.334 (C.58:11B-15) is amended to  
5 read as follows:

6 15. The State and all public officers, governmental units and  
7 agencies thereof, all banks, trust companies, savings banks and  
8 institutions, building and loan associations, savings and loan  
9 associations, investment companies, and other persons carrying on a  
10 banking business, all insurance companies, insurance associations and  
11 other persons carrying on an insurance business, and all executors,  
12 administrators, guardians, trustees and other fiduciaries may legally  
13 invest any sinking funds, moneys or other funds belonging to them or  
14 within their control in any bonds, notes or other obligations issued  
15 pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997,  
16 c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et  
17 seq.)(pending in the Legislature as this bill), and those bonds, notes or  
18 other obligations shall be authorized security for any and all public  
19 deposits.

20 (cf: P.L.1997, c.224, s.13)

21  
22 15. Section 17 of P.L.1985, c.334 (C.58:11B-17) is amended to  
23 read as follows:

24 17. All property of the trust is declared to be public property  
25 devoted to an essential public and governmental function and purpose  
26 and the revenues, income and other moneys received or to be received  
27 by the trust shall be exempt from all taxes of the State or any political  
28 subdivision thereof. All bonds, notes and other obligations of the trust  
29 issued pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**,  
30 P.L.1997, c.224 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28  
31 et seq.)(pending in the Legislature as this bill) are declared to be  
32 issued by a body corporate and politic of the State and for an essential  
33 public and governmental purpose and those bonds, notes and other  
34 obligations, and interest thereon and the income therefrom and from  
35 the sale, exchange or other transfer thereof shall at all times be exempt  
36 from taxation, except for transfer inheritance and estate taxes.

37 (cf: P.L.1997, c.224, s.14)

38  
39 16. Section 18 of P.L.1985, c.334 (C.58:11B-18) is amended to  
40 read as follows:

41 18. a. If the trust defaults in the payment of principal of, or  
42 interest on, any issue of its bonds, notes or other obligations after  
43 these are due, whether at maturity or upon call for redemption, and the  
44 default continues for a period of 30 days or if the trust defaults in any  
45 agreement made with the holders of any issue of bonds, notes or other  
46 obligations, the holders of 25% in aggregate principal amount of the

1 bonds, notes or other obligations of the issue then outstanding, by  
2 instrument or instruments filed in the office of the clerk of any county  
3 in which the trust operates and has an office and proved or  
4 acknowledged in the same manner as required for a deed to be  
5 recorded, may direct a trustee to represent the holders of the bonds,  
6 notes or other obligations of the issuers for the purposes herein  
7 provided.

8 b. Upon default, the trustee may, and upon written request of the  
9 holders of 25% in principal amount of the bonds, notes or other  
10 obligations of the trust of a particular issue then outstanding shall, in  
11 his or its own name:

12 (1) By suit, action or proceeding enforce all rights of the holders  
13 of bonds, notes or other obligations of the issue, to require the trust  
14 to carry out any other agreements with the holders of the bonds, notes  
15 or other obligations of the issue and to perform its duties under  
16 P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】** P.L.1997, c.224  
17 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending  
18 in the Legislature as this bill);

19 (2) Bring suit upon the bonds, notes or other obligations of the  
20 issue;

21 (3) By action or suit, require the trust to account as if it were the  
22 trustee of an express trust for the holders of the bonds, notes or other  
23 obligations of the issue;

24 (4) By action or suit, enjoin any acts or things which may be  
25 unlawful or in violation of the rights of the holders of the bonds, notes  
26 or other obligations of the issue;

27 (5) Sell or otherwise dispose of bonds and notes of local  
28 government units pledged pursuant to resolution or trust indenture for  
29 benefit of holders of bonds, notes, or other obligations of the issue on  
30 any terms as resolution or trust indenture may provide;

31 (6) By action or suit, foreclose any mortgage pledged pursuant to  
32 the resolution or trust indenture for the benefit of the holders of the  
33 bonds, notes or other obligations of the issue;

34 (7) Declare all bonds, notes or other obligations of the issue due  
35 and payable, and if all defaults are made good, then with the consent  
36 of the holders of 50% of the principal amount of the bonds, notes or  
37 other obligations of the issue then outstanding, to annul the  
38 declaration and its consequences.

39 c. The trustee shall, in addition to the foregoing, have those  
40 powers necessary or appropriate for the exercise of any function  
41 specifically set forth herein or incident to the general representation of  
42 holders of bonds, notes or other obligations of the trust in the  
43 enforcement and protection of their rights.

44 d. The Superior Court shall have jurisdiction over any suit, action  
45 or proceeding by the trustees on behalf of the holders of bonds, notes  
46 or other obligations of the trust. The venue of any suit, action or

1 proceeding shall be in the county in which the principal office of the  
2 trust is located.

3 e. Before declaring the principal of bonds, notes or other  
4 obligations of the trust due and payable as a result of a trust default on  
5 any of its bonds, notes or other obligations, the trustee shall first give  
6 30 days' notice in writing to the trust and to the Governor, State  
7 Treasurer, President of the Senate and Speaker of the General  
8 Assembly.  
9 (cf: P.L.1997, c.224, s.15)

10

11 17. Section 19 of P.L.1985, c.334 (C.58:11B-19) is amended to  
12 read as follows:

13 19. Sums of money received pursuant to the authority of P.L.1985,  
14 c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et  
15 al.) or P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature  
16 as this bill), whether as proceeds from the sale of particular bonds,  
17 notes or other obligations of the trust or as particular revenues or  
18 receipts of the trust, are deemed to be trust funds, to be held and  
19 applied solely as provided in the resolution or trust indenture under  
20 which the bonds, notes or obligations are authorized or secured. Any  
21 officer with whom or any bank or trust company with which those  
22 sums of money are deposited as trustee thereof shall hold and apply  
23 the same for the purposes thereof, subject to any provision as the  
24 aforementioned acts and the resolution or trust indenture authorizing  
25 or securing the bonds, notes or other obligations of the trust may  
26 provide.

27 (cf: P.L.1997, c.224, s.16)

28

29 18. Section 23 of P.L.1985, c.334 (C.58:11B-23) is amended to  
30 read as follows:

31 23. a. No funds from State sources or State bond issues used to  
32 capitalize the trust shall be available for use by the trust unless  
33 appropriated by law to the trust.

34 b. No funds shall be expended by the trust for its annual operating  
35 expenses unless appropriated by law to the trust. Unless required to be  
36 otherwise applied pursuant to law, funds generated by the operation  
37 of the trust, including, but not limited to: proceeds from the sale of the  
38 trust's bonds, notes or other obligations; revenues derived from  
39 investments by the trust; loan repayments from local government units;  
40 and fees and charges levied by the trust, may thereafter be applied in  
41 accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et  
42 seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) for any corporate  
43 purpose of the trust without appropriation; except that the funds shall  
44 only be used to make loans or guarantees approved by the Legislature  
45 in accordance with the provisions of sections 20, 21 and 22 of  
46 P.L.1985, c.334 (C.58:11B-20, 58:11B-21 and 58:11B-22), or

1 sections 24, 25 and 26 of P.L.1997, c.224 (C.58:11B-20.1,  
2 C.58:11B-21.1 and C.58:11B-22.1).

3 c. The trust shall not apply for any federal funds, including funds  
4 which are authorized pursuant to the "Federal Water Pollution Control  
5 Act Amendments of 1972," Pub.L. 92-500 (33 U.S.C. s.1251 et al.),  
6 and any amendatory or supplementary acts thereto.

7 The trust, with the concurrence of the Commissioner of  
8 Environmental Protection, may receive, accept or utilize moneys  
9 received from local government units as repayments of principal and  
10 interest on loans made from the State Revolving Fund Accounts  
11 established pursuant to section 1 of P.L.1988, c.133.

12 The provisions of this section shall not apply to the powers of the  
13 trust set forth in the provisions of P.L. , c. (C.58:11B-28 et  
14 seq.)(pending in the Legislature as this bill).

15 (cf: P.L.1997, c.224, s.20)

16

17 19. Section 25 of P.L.1985, c.334 (C.58:11B-25) is amended to  
18 read as follows:

19 25. The trust shall establish the rules and regulations governing the  
20 making and use of loans or guarantees, including, but not limited to,  
21 procedures for the submission of loan guarantee requests, standards  
22 for the evaluation of requests, provisions implementing priority  
23 systems for projects, reporting requirements of the recipient of any  
24 loan or guarantee concerning the progress and the expenditure of  
25 funds, and limitations, restrictions or requirements concerning the use  
26 of loan funds as the trust shall prescribe; provided that the rules and  
27 regulations shall be in compliance with the terms and provisions of  
28 P.L.1985, c.334 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224  
29 (C.58:11B-10.1 et al.) or P.L. , c. (C.58:11B-28 et seq.)(pending  
30 in the Legislature as this bill) relating to the making of or eligibility for  
31 loans or guarantees for environmental infrastructure projects generally  
32 or for any particular type or class of wastewater treatment system  
33 **【or】**, water supply projects or solid waste facility debt.

34 (cf: P.L.1997, c.224, s.21)

35

36 20. (New section) a. The State Treasurer shall pay to the trust in  
37 each fiscal year an amount equivalent to the amount due to be paid in  
38 the particular fiscal year on the bonds issued by the trust, and any  
39 additional costs relating to any solid waste facility debt agreement, in  
40 accordance with one or more contracts entered into between the State  
41 Treasurer and the trust as provided in subsection b. of this section.

42 b. The State Treasurer and the New Jersey Environmental  
43 Infrastructure Trust are hereby authorized to enter into one or more  
44 contracts to implement the arrangements to finance or refinance solid  
45 waste facility debt repayment provided for in the provisions of P.L. ,

46 c. (C.58:11B-28 et seq.)(pending in the Legislature as this bill).



1 (1) Every contract shall provide for the payment by the State  
2 Treasurer of the amounts required to be paid pursuant to this section  
3 and shall set forth the procedure for the transfer of moneys for the  
4 purposes of such payment.

5 (2) Every contract shall contain such terms and conditions as are  
6 determined by the parties, and shall include, but not be limited to, any  
7 terms and conditions necessary and desirable to secure any bonds  
8 issued by the trust to finance or refinance solid waste facility debt.

9 (3) The provisions of any other law, rule, regulation or order to the  
10 contrary notwithstanding, the State Treasurer shall pay to the trust  
11 only such funds as shall be determined by the contract or contracts,  
12 and the incurring by the State of any payment obligation under the  
13 contract or contracts, including any payments to be made thereunder,  
14 shall be subject to and dependent upon appropriations being made  
15 from time to time by the Legislature for the purposes of financing or  
16 refinancing solid waste facility debt repayment.

17 c. The provisions of any other law, rule, regulation or order to the  
18 contrary notwithstanding, the bonds issued by the trust and secured by  
19 repayments made by the State Treasurer pursuant to this section shall  
20 be special obligations of the trust payable as herein provided and as  
21 provided in a solid waste facility debt agreement. These bonds shall  
22 not be deemed to constitute a debt or liability of the State or a pledge  
23 of the faith and credit of the State, but shall be dependent for  
24 repayment upon appropriations being made from time to time by the  
25 Legislature as provided by law. The payment of the principal of the  
26 bonds, any redemption premium and the interest thereon may be  
27 payable from the any of proceeds thereof, and the income accruing  
28 therefrom, which are set aside for that purpose.

29  
30 21. Section 27 of P.L.1985, c.334 (C.58:11B-27) is amended to  
31 read as follows:

32 27. The trust shall adopt **【such】** any rules and regulations as it  
33 deems necessary to effectuate the purposes of P.L.1985, c.334  
34 (C.58:11B-1 et seq.) **【or】**, P.L.1997, c.224 (C.58:11B-10.1 et al.) or  
35 P.L. , c. (C.58:11B-28 et seq.)(pending in the Legislature as this  
36 bill), including those required pursuant to sections 25 and 26 of  
37 P.L.1985, c.334 (C.58:11B-25 and 58:11B-26), in accordance with the  
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
39 seq.).

40 (cf: P.L.1997, c.224, s.22)

41  
42 22. This act shall take effect immediately.

## STATEMENT

This bill authorizes the New Jersey Environmental Infrastructure Trust to refinance the solid waste facility bond debt incurred by public authorities and counties in developing State-mandated incinerators, landfills and transfer stations.

The New Jersey Environmental Infrastructure Trust (Trust), established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) and originally organized in August 1986 as the New Jersey Wastewater Treatment Trust, was revised and renamed under the provisions of P.L.1997, c.224. The Trust is a State financing authority which can issue bonds, notes and other debt obligations to finance a portion of the costs of so-called "environmental infrastructure projects." Since 1987, the Trust, in conjunction with the Department of Environmental Protection (DEP), have administered the New Jersey Wastewater Treatment Financing Program. The New Jersey Wastewater Treatment Financing Program has been the primary source available for either federal or State funding to assist eligible local governments to finance necessary wastewater treatment (sewer) system upgrades. The Program has completed twelve annual financing cycles and financed more than \$1.5 billion of clean water projects throughout the State. In 1997, the Legislature revised the Trust's enabling legislation pursuant to P.L.1997, c.224 to expand the role of the Trust to include the financing of drinking water projects and clarified eligibility of stormwater project financing. At the same time, the Legislature enacted P.L.1997, c.223 and P.L.1997, c.225, which the voters approved on November 4, 1997 as amendments to the "Water Supply Bond Act of 1981" (P.L.1981, c.261) and the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181), respectively, to authorize the Trust to leverage a portion of these bond moneys to finance drinking water and stormwater management projects. These changes have resulted in a consolidated approach to Federal and State clean water, drinking water and stormwater management project financing known as the New Jersey Environmental Infrastructure Financing Program.

This bill expands the authority of the Trust further to include the financing and refinancing of the solid waste facility bond debt incurred by public authorities and counties in developing State-mandated solid waste disposal or processing facilities. The objective is to allow public authorities and counties to reduce their solid waste facility debt service repayment obligations through the issuance of Trust refunding bonds along with deficiency payments, subsidies or other actions provided under the bill.

It is anticipated that conventional appropriations from the General Fund as well as bond moneys made available pursuant to P.L.1998, c.66, which revised the "Natural Resources Bond Act of 1980" and the

1 "Resource Recovery and Solid Waste Disposal Facility Bond Act of  
2 1985," respectively, to authorize the use of bond moneys for grants to  
3 counties and public authorities to assist in the payment of debt service  
4 costs incurred in developing solid waste facilities, may be used to  
5 provide funding for any State subsidy that may be made available to  
6 cover any deficiency payment needed by a public authority or county.

7 The bill authorizes the Trust to enter into solid waste facility debt  
8 agreements with any county or public authority. Every solid waste  
9 facility debt agreement shall be subject to the approval of the State  
10 Treasurer. Any solid waste facility debt agreement may require the  
11 participating county or public authority to impose such lawfully  
12 authorized fees and charges or other source of revenue as the Trust,  
13 subject to the approval of the State Treasurer, may require to ensure  
14 the competitiveness of the county solid waste facility and the  
15 repayment of the Trust loan. Any solid waste facility debt agreement  
16 pursuant to which the Trust contracts to make a loan shall include a  
17 provision requiring the county or public authority to submit to an  
18 operational audit to be conducted or contracted for by the State  
19 Treasurer. To the extent that recommendations are made by the State  
20 Treasurer pursuant to an audit, the solid waste facility debt agreement  
21 may include a provision requiring the county or public authority to  
22 agree to implement any such recommendations to the satisfaction of  
23 the State Treasurer. No solid waste facility debt agreement entered  
24 into with the Trust or otherwise related to the security for the bonds  
25 issued by the Trust may take effect until the State Treasurer has  
26 approved the terms and conditions of the agreement.