

Environment—County and Municipal Water Supply Act—N.J. Stat. Ann. §§ 40A:31-1 to -24 (West Supp. 1989).

On June 29, 1989 the New Jersey Legislature enacted the County and Municipal Water Supply Act.¹ The Act provides for the financing, construction, acquisition, maintenance and operation of water supply facilities² by counties and municipalities, separately or together, with other parties such as private water companies, or with the state.³ The legislature has found it in the interest of the public and the state to make available by reasonable means an adequate water supply to the inhabitants and businesses of the state.⁴

Once the necessary state permits and approvals are acquired, a local unit⁵ may buy, construct or operate water supply facilities by itself or in conjunction with other parties.⁶ However, the local unit must first conclude that the transaction promotes public safety and welfare.⁷ Once local units have adopted ordinances or resolutions to achieve this end, local units have the power to operate, control and finance the water supply facilities.⁸

Also, the local unit or units can acquire rights and interests in land, or other real or personal property necessary for the implementation of the Act, through the exercise of eminent domain.⁹ Personal and real property needed to achieve the intent of the Act can also be gifted to local units.¹⁰

In maintaining water supply facilities, local units can also allow their agents to enter private lands or buildings, which are connected to their water supply facilities.¹¹ The agents are authorized to conduct surveys or investigations on the private prop-

¹ N.J. STAT. ANN. §§ 40A:31-1 to -24 (West Supp. 1989).

² "Water supply facilities" are defined as any real or personal properties which promote the distribution, availability or accumulation of water. *Id.* § 40A:31-3(d).

³ *Id.* § 40A:31-2.

⁴ *Id.*

⁵ "Local unit" refers to a county or a municipality. *Id.* § 40A:31-3(c).

⁶ *Id.* § 40A:31-4.

⁷ *Id.*

⁸ *Id.* § 40A:31-5(a).

⁹ *Id.* § 40A:31-5(d).

¹⁰ *Id.*

¹¹ *Id.* § 40A:31-19.

erty for the purposes espoused in the Act.¹²

To finance water supply facilities, local units are authorized to issue bonds,¹³ accept loans or grants from any governmental branch or agency,¹⁴ and collect any fees or rents as prescribed within the Act.¹⁵ The local units are separate financial entities, which can loan each other money, as long as the income and indebtedness of each local unit are reported separately.¹⁶ Local units can also issue bonds exclusively to cover payments for the costs of the water supply facilities.¹⁷ These bonds are legal investments, which shall secure all public deposits.¹⁸ Local units may set rates or rentals to be charged to users for any services the facilities provide.¹⁹ These charges must, however, be uniform and equitable for each type and class of use of the water supply facility.²⁰ In prescribing the rates, the local units will set rate structures within the limits of legal contracts made with the holders of the bonds.²¹ These rate structures will pay for recovery of all costs, and establish a surplus of monies to prepare for reasonably anticipated additional costs, or at the local unit's option, permit transfer of surplus monies into the local budget.²² Also, local units may charge the owners or occupants of any property connected to the water supply system a connection fee.²³ The connection fee must be fair and reasonable in that it may not exceed the cost of physically connecting the property to the water supply system, plus an amount computed to partially cover the cost of the facility.²⁴ Any delinquent payments will accrue interest after thirty (30) days from the date the payment was

¹² *Id.*

¹³ *Id.* § 40A:31-5(b).

¹⁴ *Id.* § 40A:31-5(c).

¹⁵ *Id.* § 40A:31-5(g).

¹⁶ *Id.* §§ 40A:31-15 to -16.

¹⁷ *Id.* § 40A:31-9.

¹⁸ *Id.* § 40A:31-22. The bonds and the interest from them are tax-exempt, except under inheritance and transfer taxes. *Id.*

¹⁹ *Id.* § 40A:31-10.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* § 40A:31-10(a)-(b).

²³ *Id.* § 40A:31-11.

²⁴ *Id.* § 40A:31-11(a).

due.²⁵ Rents, rates, connection fees and other charges under the act will be considered first liens against the benefited property, which will be enforceable as real property tax liens.²⁶

A local unit may also decide to finance improvements on real properties situated within the local units through local improvement assessments.²⁷ First, the local unit must pass a resolution describing its intent to finance the water supply facility and give notice to the appropriate property owners of the proposed action by certified mail and by publishing a date for a public meeting at which the action will be discussed.²⁸ Also, the notice must be advertised in at least one local newspaper.²⁹ After the public hearing, a local unit will adopt a resolution, if it decides to undertake the local improvements.³⁰ Once improvements have been made and the local unit has assessed and approved the costs of the improvements, notice is given to the concerned property owners of the assessments in the form of a report.³¹ At a public meeting property owners can voice any complaints concerning the report, and the local units have the option to revise the report.³² Bills will be sent to the applicable property owners, and if a bill remains unpaid, the local unit may enforce the lien by sale of the delinquent owner's property.³³

Local units may enter into any contracts which pertain to their obligations and powers under the Act.³⁴ A local unit may contract with any governmental branch or agency, another local unit, private corporation or individual for the distribution of water supply services contained in the Act.³⁵ The Act will not impair obligations assumed prior to the act by local units or pri-

²⁵ *Id.* § 40A:31-12. Interest rates will be determined as described in *id.* § 40A:31-17.

²⁶ *Id.* § 40A:31-12.

²⁷ *Id.* § 40A:31-13.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* § 40A:31-14.

³² *Id.*

³³ *Id.*

³⁴ *Id.* § 40A:31-5(e).

³⁵ *Id.* § 40A:31-5(f).

vate companies to supply water to industries and inhabitants of the state.³⁶

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³⁶ *Id.* § 40A:31-23(a).